



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

11 October 2021 - 6.00pm

ORDER OF BUSINESS

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BANKSTOWN WARD

- | | | |
|----------|---|----------|
| 1 | Draft Affordable Housing Contribution Scheme and Planning Proposal | 3 |
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BASS HILL WARD

- | | | |
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| 2 | DA-582/2020 - 197-201 Rodd Street, Sefton
Demolition of existing structures and construction of a two-storey, 115 bed residential care facility with basement parking and service activities with associated landscaping and site works. | 105 |
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REVESBY WARD

- | | | |
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| 3 | DA-1053/2020 - 67 Lambeth Street, Panania NSW 2213
Demolition of existing structures and construction of a two-storey, 76 place child care centre with basement car parking | 155 |
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Canterbury Bankstown Local Planning Panel - 11 October 2021

ITEM 1	Draft Affordable Housing Contribution Scheme and Planning Proposal
APPLICANT	Council initiated
OWNERS	Various
AUTHOR	Planning

PURPOSE AND BACKGROUND

This report seeks advice from the Canterbury Bankstown Local Planning Panel to proceed with a planning proposal to implement a Draft Affordable Housing Contribution Scheme (the Draft Scheme). Council will consider this advice as part of a report to decide whether to proceed with the planning proposal. The planning proposal and Draft Scheme are provided in Attachments A and B.

ISSUE

State and local policies recommend that Council prepare the Draft Scheme to reduce the level of housing stress experienced by residents in Canterbury Bankstown. The State policies include the Region and District Plans, and the local policies include Council's adopted Local Strategic Planning Statement '*Connective City 2036*', Housing Strategy and Affordable Housing Strategy. The Department of Planning, Industry and Environment has endorsed Council's Housing Strategy.

Draft Scheme

The intent of the Draft Scheme is for Council to own affordable housing dwellings that are rented to tenants within the very low to moderate income households. Councils that currently operate schemes in the Greater Sydney Region include Canada Bay, Randwick, Sydney, Waverley and Willoughby Councils. Whilst the Draft Scheme will not resolve the wider issue of housing stress in the Greater Sydney Region, it is an additional mechanism to provide more affordable housing to the relevant target groups of very low to moderate income households.

In summary, the template of the Draft Scheme comprises:

- Affordable Housing Contribution Rates: The Draft Scheme would set out how, where and at what rate contributions can be collected for affordable housing (monetary contribution, land or dedication of dwellings).
- Application: The Draft Scheme would apply to centres that are subject to Council's master planning process and where uplift is proposed to occur. In areas of uplift, it would be expected that a portion of the total residential gross floor area would be dedicated to Council for the delivery of affordable housing.

According to Council's Affordable Housing Strategy and Bankstown Master Plan, the Draft Scheme would initially apply to development in the Bankstown Strategic Centre that choose to benefit from the affordable housing option under the incentive height and floor space provision. In future:

- Council's master planning process may identify other centres where the Draft Scheme may apply, subject to viability testing.
- Council's Planning Agreements Policy will apply to site specific rezoning applications not identified by the Draft Scheme.
- Excluded Development from the Draft Scheme:
 - Affordable housing or social housing that choose the affordable housing option under the incentive height and floor space provision, provided it is managed by a registered community housing provider and the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity.
 - Development that provide infrastructure or employment floor space as part of the incentive height and floor space provision.
- Administration: Council would use the dedication of dwellings, land and monetary contributions to develop, purchase and manage affordable housing. Council would also partner with a community housing provider to manage the tenancies. The community housing provider would select tenants within the very low to moderate household income brackets and seek rent based on 30% of the household income.

Planning Proposal

The Environmental Planning and Assessment Act 1979 and the State Environmental Planning Policy No. 70—Affordable Housing (Revised Schemes) set out the requirements to implement the Draft Scheme. The requirements include preparing a planning proposal to reference the Draft Scheme in Council's Local Environmental Plans. This will enable Council to impose a condition on development consents to levy the affordable housing contribution.

RECOMMENDATION That -

1. The planning proposal, as provided in Attachment A, proceed to Gateway.
2. Council seek authority from the Department of Planning, Industry and Environment to exercise the delegation in relation to the plan making functions under section 3.36(2) of the Environmental Planning and Assessment Act 1979.
3. Subject to the issue of a Gateway Determination, Council exhibit the planning proposal and the Draft Affordable Housing Contribution Scheme concurrently, and the matter be reported to Council following the exhibition.

ATTACHMENTS

- A. Planning Proposal
- B. Draft Affordable Housing Contribution Scheme

POLICY IMPACT

Policy Framework

The Background Report (page 13) to Council's Affordable Housing Strategy identifies the need for more affordable housing in Canterbury Bankstown:

As of 2016, in Canterbury Bankstown there were 15,441 households that were renters experiencing rental stress. This represents 39.1% of renting households in the LGA (compared to 26.4% in Greater Sydney). As of 2016, in Canterbury Bankstown there were 5,707 households that had mortgages and were experiencing mortgage stress. This represents 17.8% of households with a mortgage in the LGA (compared to 10.3% in Greater Sydney). These figures indicate that renters experience housing stress more so than those households with a mortgage.

Existing mechanisms to provide affordable housing under the NSW planning system include:

- Social housing, which is State-owned infrastructure delivered by the Land and Housing Corporation. The issue is social housing is not meeting demand.
- The State Environmental Planning Policy (Affordable Rental Housing) 2009, which encourages development to provide affordable housing by offering bonus floor space. The issue is the availability of the affordable housing supply is limited to 10–15 years.
- Council's Planning Agreements Policy, which allows contributions under planning agreements to be in the form of affordable housing, monetary payment or land dedication. The issue is planning agreements focus on site specific planning proposals, rather than precinct master plans.

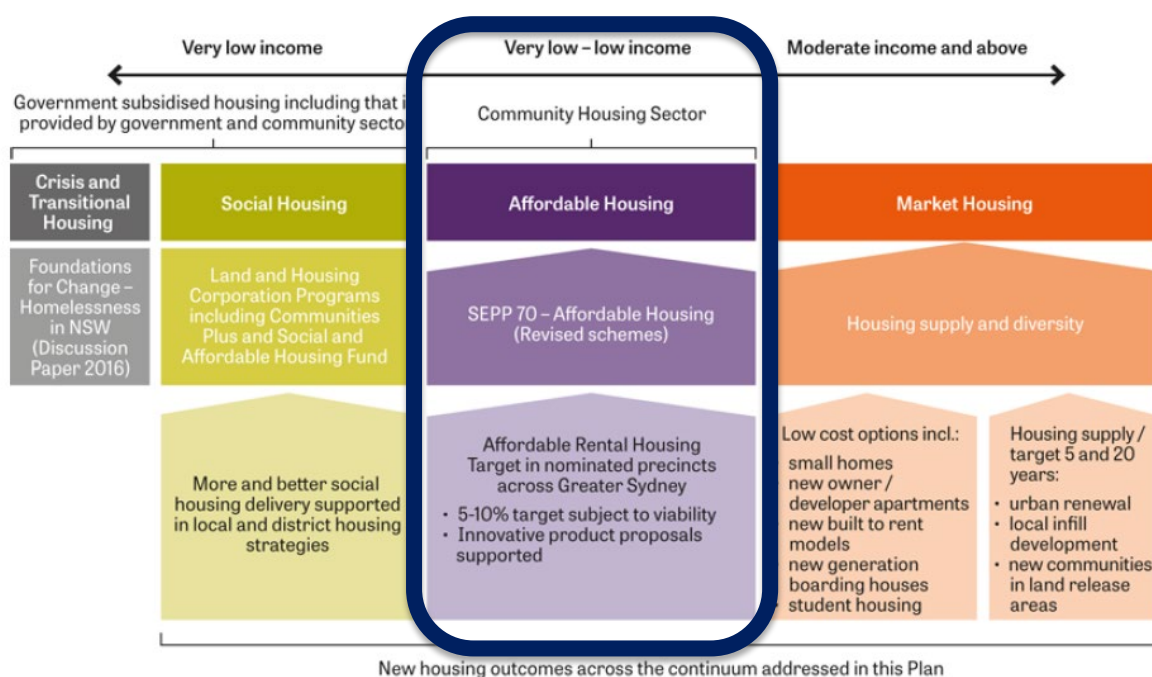
State and local policies conclude that stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households. The State and local policies include:

- NSW Housing Strategy 'Housing 2041' (Department of Planning, Industry and Environment, March 2021)
- Greater Sydney Region Plan (Greater Sydney Commission, March 2018)
- South District Plan (Greater Sydney Commission, March 2018)
- Local Strategic Planning Statement 'Connective City 2036' (Council, March 2020)
- Canterbury Bankstown Housing Strategy (Council, June 2020)
- Canterbury Bankstown Affordable Housing Strategy (Council, June 2020)
- Affordable Housing Strategy–Background Report (Council, February 2020)
- Bankstown Master Plan (Council, March 2021)
- Development Feasibility Analysis (Atlas Urban Economics, February 2021).

The State and local policies recommend that Council prepare an Affordable Housing Contribution Scheme (the Scheme). The intent of the Scheme is for Council to own affordable housing dwellings that are rented to tenants within the very low to moderate income households. According to the analyses, the Scheme would focus on locations where lower income households are paying over 30% of their income on rent. The priority areas include Bankstown, Campsie, Lakemba, Punchbowl and Wiley Park, where housing stress is most common.

Whilst the Scheme will not resolve the wider issue of housing stress in the Greater Sydney Region, it is an additional mechanism to provide more affordable housing to support very low to moderate income households who are experiencing housing stress as shown in Figure 1.

Figure 1: Housing continuum, initiatives and programs (Greater Sydney Region Plan, page 69)



Draft Affordable Housing Contribution Scheme

Council has prepared a Draft Affordable Housing Contribution Scheme (the Draft Scheme) in accordance with the Environmental Planning and Assessment Act 1979 (section 7.32), SEPP No. 70—Affordable Housing (Revised Schemes) and the Department of Planning, Industry and Environment’s *Guideline for Developing an Affordable Housing Contribution Scheme*. The Draft Scheme is provided in Attachment B. The template of the Draft Scheme comprises:

1. Affordable Housing Contribution Rates

The Draft Scheme sets out how, where and at what rate contributions can be collected for affordable housing. A contribution is to be calculated based on the total residential gross floor area of the development to which the development application relates.

The Draft Scheme would allow landowners and developers to satisfy the affordable housing contribution requirement by:

- dedicating in favour of Council—
 - one or more dwellings, each having a gross floor area of not less than 50 square metres and each complying with the NSW Apartment Design Guide’s solar access and natural ventilation requirements, with any remainder paid as a monetary contribution to Council, or
 - other land approved by Council in accordance with the Draft Scheme, with any remainder paid as a monetary contribution to the Council, or
- if the person chooses, by monetary contribution to be calculated in accordance with the Draft Scheme.

In addition, Council would be able to take monetary contributions in situations where the affordable housing dwellings are considered unsuitable or where the dedication of dwellings is deficit of more than 1 square metre. There would be no 'savings' or 'credit' for existing floor space on the site, even if the building is being adapted and reused.

2. Application

The Draft Scheme would apply to centres that are subject to Council's master planning process and where uplift is proposed to occur. In areas of uplift, it would be expected that a portion of the total residential gross floor area would be dedicated to Council for the delivery of affordable housing.

According to the Affordable Housing Strategy (Action 2.2, page 8) and Bankstown Master Plan, the Draft Scheme would initially apply to development in the Bankstown Strategic Centre that choose to benefit from the affordable housing option under the incentive height and floor space provision. In future:

- Council's master planning process may identify other centres where the Draft Scheme may apply, subject to viability testing.
- Council's Planning Agreements Policy will apply to site specific rezoning applications not identified by the Draft Scheme.

3. Excluded Development from the Draft Scheme

In relation to the Bankstown Strategic Centre, it is recognised that affordable housing and social housing may benefit from the affordable housing option under the incentive height and floor space provision.

The Draft Scheme would exclude the following development from the affordable housing contribution requirement:

- Affordable housing or social housing that choose the affordable housing option under the incentive height and floor space provision, provided:
 - the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity, to be confirmed with a covenant registered in the title of the site, and
 - the affordable housing or social housing is managed by a registered community housing provider.
- Development that provide on site infrastructure or a minimum 50% employment generating gross floor area under the incentive height and floor space provision.

4. Administration

Council would use the dedication of dwellings, land and monetary contributions to develop, purchase and manage affordable housing. Council would also partner with a community housing provider to manage the tenancies. The community housing provider would select tenants within the very low to moderate household income brackets and seek rent based on 30% of the household income.

5. Viability Testing

According to the Department of Planning, Industry and Environment's *Guideline for Developing an Affordable Housing Contribution Scheme* (page 19), *as part of developing an affordable housing contribution scheme and preparing a planning proposal to amend an LEP to levy developer contributions, councils will need to prepare and provide evidence that affordable housing contribution rates are viable*. The viability testing is to ensure that the rates are viable and will not impact on development feasibility and overall housing supply.

To understand the economic impacts of the proposed affordable housing contributions, Council sought independent economic advice to undertake viability testing as part of the Bankstown Master Plan (pages 35, 119).

The viability testing suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time. The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.

The Draft Scheme would take a staged implementation approach to allow the market to adjust. By phasing in the requirement, it can be considered ahead of time in land purchases and development projects.

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

FINANCIAL IMPACT

The Draft Scheme (Section 3) outlines the processes to administer and implement the Draft Scheme. In summary:

- Council would establish a fund to pool and manage the contributions to develop, purchase and manage affordable housing.
- Council would partner with a community housing provider to manage the tenancies.

In relation to likely contributions received from the Draft Scheme, a possible scenario may be the 100% uptake (which is unlikely) of the affordable housing option under the incentive height and floor space provision over the life of the Draft Scheme. The maximum yield would be around 340 affordable housing dwellings. However, it is recognised that this scenario is a high-level optimistic estimate where a 100% uptake is achieved, which is unlikely to occur in practice.

Following the adoption of the proposed built form planning controls in the Bankstown Master Plan, the economic consultant is currently confirming that the independent economic advice for the Bankstown Strategic Centre remains consistent to inform the report to the Council Ordinary Meeting. This advice will provide input into likely contributions received from the Draft Scheme.

COMMUNITY IMPACT

Council's Community Plan 'CBCity 2028' and Local Strategic Planning Statement 'Connective City 2036' recognise the needs and aspirations of the community. The community highlighted the need for more affordable housing (CBCity 2028, page 44).

This need is supported by the Background Report (page 27) to Council's Affordable Housing Strategy, which reads: *A greater proportion of households in Canterbury Bankstown experience housing stress than in Greater Sydney, and this proportion has grown in the past decade. The Sydenham to Bankstown corridor is home to one of the largest concentrations of lower income renters in Sydney and has a relatively younger population compared to the rest of Canterbury Bankstown. Planning intervention is required to secure the economic and social benefits that affordable housing offers existing and future residents and workers in growing mixed use centres.*

This planning proposal addresses the social and economic effects by implementing the Draft Scheme via the local environmental plan. The intent of the Draft Scheme is for Council to own affordable housing dwellings that are rented to tenants within the very low to moderate income range. Based on the analyses, it is recommended to prioritise the delivery of affordable housing in the Bankstown Strategic Centre. This approach is in addition to the other mechanisms that exist under the NSW planning system to deliver affordable housing.

DETAILED INFORMATION

Planning Proposal

The intended outcomes of the planning proposal are:

- To ensure there are opportunities for very low to moderate income households to live in Canterbury Bankstown.
- To facilitate a coordinated approach towards the provision of affordable housing.
- To provide affordable housing on land where there is an increase in floor area, where a need for affordable housing is identified and where development viability can be maintained.
- To permit the imposition of conditions relating to the provision of affordable housing.

The planning proposal will achieve the intended outcomes by including a new local provision that:

1. Identifies that the Affordable Housing Contribution Scheme will apply to development in the Bankstown Strategic Centre that:
 - choose to benefit from the affordable housing option under the incentive height and floor space provision, and
 - is located on land in accordance with the proposed Affordable Housing Contribution Scheme Map provided in Part 4 of the planning proposal.
2. Identifies the percentage of the total residential gross floor area of development that the affordable housing contribution requirement is to apply.

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

3. Imposes a condition on development consents that requires landowners and developers to satisfy the affordable housing contribution requirement by:
 - dedicating in favour of Council—
 - one or more dwellings, each having a gross floor area of not less than 50 square metres and each complying with the NSW Apartment Design Guide's solar access and natural ventilation requirements, with any remainder paid as a monetary contribution to Council, or
 - other land approved by Council in accordance with the Affordable Housing Contributions Scheme, with any remainder paid as a monetary contribution to the Council, or
 - if the person chooses, by monetary contribution to be calculated in accordance with the Affordable Housing Contribution Scheme.

4. Confirms there are no 'savings' or 'credit' for existing floor space on the site.
5. Excludes the following development from the affordable housing contribution requirement:
 - Affordable housing or social housing that choose the affordable housing option under the incentive height and floor space provision, provided:
 - the affordable housing or social housing is managed by a registered community housing provider, and
 - the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity, to be confirmed with a covenant registered in the title of the site.
 - Development that provide on site infrastructure or a minimum 50% employment generating gross floor area under the incentive height and floor space provision.

Considerations

Based on the Environmental Planning and Assessment Act 1979 and the Department of Planning, Industry and Environment's guidelines, the following key policies informed the planning proposal:

- Greater Sydney Region Plan and South District Plan
- State Environmental Planning Policy No. 70—Affordable Housing (Revised Schemes) (SEPP 70)
- Ministerial Directions
- Council's Local Strategic Planning Statement '*Connective City 2036*'
- Council's Housing Strategy, Affordable Housing Strategy, Bankstown Master Plan and Development Feasibility Analysis
- Department of Planning, Industry and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.
- The Department of Planning, Industry and Environment's endorsement of Council's Housing Strategy.

Strategic Merit Test

The table addresses the Department of Planning, Industry and Environment's Strategic Merit Test as outlined in *A Guide to Preparing Local Environmental Plans*. The intended outcome is to demonstrate that the planning proposal has strategic merit to proceed to Gateway.

Strategic Merit Test	Consistent
<p>Does the planning proposal give effect to the relevant district plan within the Greater Sydney Region?</p> <p>The Greater Sydney Region Plan and South District Plan apply to Canterbury Bankstown.</p> <p>The Plans seek to provide more affordable housing to meet changing demographic needs. The Greater Sydney Region Plan (Strategy 11.1, page 72) and the South District Plan (Action 17, page 44) recommend an Affordable Rental Housing Target Scheme as a mechanism to deliver an additional supply of affordable housing for very low to low income households. The Scheme would set an affordable rental housing target</p>	Yes

<p>generally in the range of 5–10% of new residential floor space subject to viability testing. The Scheme would apply in defined precincts prior to rezoning.</p> <p>The planning proposal gives effect to the Plans by implementing the Draft Scheme via the local environmental plan.</p> <p>According to the Affordable Housing Strategy (Action 2.2, page 8), the Draft Scheme would initially apply to the Bankstown Strategic Centre. In areas of uplift, it would be expected that a portion of the total residential gross floor area would be dedicated to Council for the purpose of affordable housing.</p> <p>The viability testing undertaken as part of the Bankstown Master Plan suggests that development would not be able to achieve the 5–10% range set by the Greater Sydney Region Plan and South District Plan at this time. The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis. A staged implementation approach would be taken to allow the market to adjust.</p>	
<p>Does the planning proposal give effect to a relevant local strategy that has been endorsed by the Department?</p> <p><u>Local Strategic Planning Statement ‘Connective City 2036’</u></p> <p>Council adopted <i>Connective City 2036</i> in 2019 and the Greater Sydney Commission has assured <i>Connective City 2036</i>, confirming it is consistent with State priorities. <i>Connective City 2036</i> is the first comprehensive strategic planning vision for Canterbury Bankstown, and looks at the most appropriate way to respond to the Greater Sydney Commission’s requirement to deliver dwellings and jobs to 2036.</p> <p><i>Connective City 2036</i> identifies the need for more affordable housing to support very low to moderate income households who are experiencing housing stress. <i>Connective City 2036</i> found that (page 74):</p> <ul style="list-style-type: none"> • There is a need to provide affordable housing to support a range of demographic groups and to support members of the community who would otherwise rely on social housing. • Renewal could displace lower income households, particularly those who live in older homes, which is generally more affordable. There is the need to explore initiatives to offset this displacement as part of the renewal process. <p>To address this need, <i>Connective City 2036</i> recommends (page 75):</p> <ul style="list-style-type: none"> • To test a more aspirational target of 15% of all new development in growth precincts, subject to viability (Action E6.11.136). • To prepare the Draft Scheme (Action E6.11.138). <p>The viability testing undertaken as part of the Bankstown Master Plan suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by <i>Connective City 2036</i> at this time. The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis. A staged implementation approach would be taken to allow the market to adjust.</p> <p>The planning proposal gives effect to <i>Connective City 2036</i> by implementing the Draft Scheme via the local environmental plan.</p>	<p>Yes</p>

<p><u>Housing Strategy</u></p> <p>Council adopted its Housing Strategy in 2020 and the Department of Planning, Industry and Environment has endorsed the Housing Strategy.</p> <p>The Housing Strategy provides a vision for how housing growth would be accommodated in Canterbury Bankstown. The main purpose is to explore how much, where and what type of new housing Canterbury Bankstown should accommodate over the next 20 years, taking into consideration the vision set out by <i>Connective City 2036</i>.</p> <p>The analyses identified the need to retain and protect an existing affordable housing supply and that households are increasingly experiencing housing stress, particularly rental households. More affordable housing is required to support residents who are experiencing housing stress in centres or may be priced out of Canterbury Bankstown (page 93).</p> <p>The vision is informed by community and stakeholder feedback through the community strategic planning process. The vision reads: <i>Canterbury Bankstown will have housing that meets the needs of its growing and changing population. New housing development will provide a mix of housing types and sizes in a range of price points. Larger developments will provide affordable housing. New housing growth will be targeted to centres that can offer residents a high level of amenity and access to jobs, services and community facilities</i> (page 131).</p> <p>To achieve the vision, Strategic Direction 5 recommends the preparation of the Draft Scheme to levy affordable housing contributions through SEPP 70 (pages 34, 132). The planning proposal gives effect to the Housing Strategy by implementing the Draft Scheme via the local environmental plan.</p>	
<p>Does the planning proposal respond to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls?</p> <p>An objective of the Environmental Planning and Assessment Act 1979 is to promote the delivery and maintenance of affordable housing. The Act (section 7.32) enables councils to levy contributions for affordable housing.</p> <p>To do this, the Act requires SEPP 70 to name Council's local government area. Once this occurs, Council can seek to amend its local environmental plans to have reference to an affordable rental housing contribution scheme and to levy affordable housing contributions.</p> <p>In February 2019, the Department of Planning, Industry and Environment amended SEPP 70 to include all councils across NSW (thus meeting the Act's requirements of a council being named in a SEPP). The amendment removes the administrative step of entering a LGA into SEPP 70, thereby expediting Council's ability to investigate and develop an affordable housing contribution scheme.</p> <p>The planning proposal responds to this change in circumstances as a result of the SEPP Amendment. Council has prepared a Draft Scheme and the next step is to amend its local environmental plans to reference the Draft Scheme in accordance with the Act and SEPP 70.</p>	Yes

Other Justification

The planning proposal provides additional justification in accordance with the Department of Planning, Industry and Environment's publications: *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. The justification does not identify the need for further information to be provided prior to and post Gateway, should Council decide to proceed with the planning proposal.

Planning Proposal

Affordable Housing Contribution Scheme

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Abbreviations used in this planning proposal

Act	Environmental Planning and Assessment Act 1979
Canterbury Bankstown	Canterbury Bankstown Local Government Area
Council	Canterbury Bankstown Council
Department	Department of Planning, Industry and Environment
LGA	Local Government Area
LEP	Local Environmental Plan
Scheme	Affordable Housing Contribution Scheme
SEPP	State Environmental Planning Policy
SEPP 70	State Environmental Planning Policy No. 70–Affordable Housing (Revised Schemes)

Documents referenced in this planning proposal

Affordable Housing Strategy	Canterbury Bankstown Affordable Housing Strategy (Canterbury Bankstown Council, June 2020)
Background Report	Affordable Housing Strategy–Background Report (Canterbury Bankstown Council, February 2020)
Bankstown Master Plan	Bankstown Master Plan (Canterbury Bankstown Council, March 2021)
Connective City 2036	Local Strategic Planning Statement (Canterbury Bankstown Council, March 2020)
Feasibility Study	Development Feasibility Analysis (Atlas Urban Economics, February 2021)
Greater Sydney Region Plan	Greater Sydney Region Plan (Greater Sydney Commission, March 2018)
Guideline	Guideline for Developing an Affordable Housing Contribution Scheme (Department of Planning, Industry and Environment, February 2019)
Housing Strategy	Canterbury Bankstown Housing Strategy (Canterbury Bankstown Council, June 2020)
NSW Housing Strategy	NSW Housing Strategy ‘Housing 2041’ (Department of Planning, Industry and Environment, March 2021)
South District Plan	South District Plan (Greater Sydney Commission, March 2018)

INTRODUCTION

Background

State and local policies identify the need for more affordable housing to reduce the level of housing stress experienced by residents in Canterbury Bankstown. Affordable housing is defined as housing for very low to moderate income households.

Existing mechanisms to provide affordable housing under the NSW planning system include:

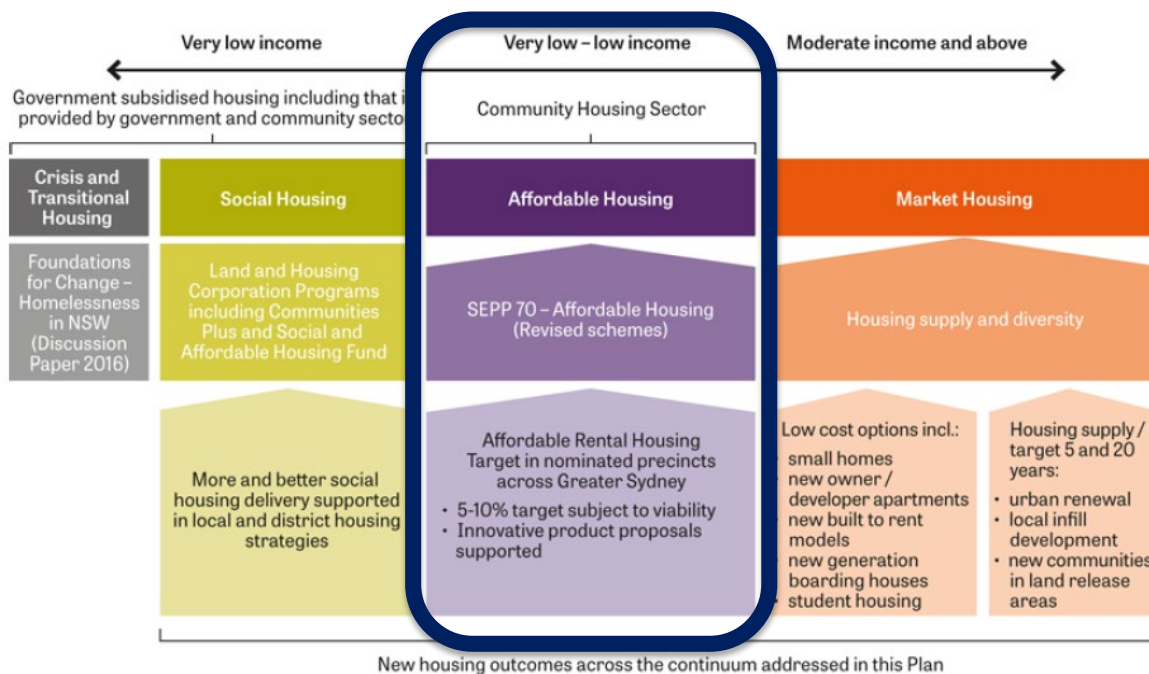
- Social housing, which is State-owned infrastructure delivered by the Land and Housing Corporation. The issue is social housing is not meeting demand.
- The State Environmental Planning Policy (Affordable Rental Housing) 2009, which encourages development to provide affordable housing by offering bonus floor space. The issue is the availability of the affordable housing supply is limited to 10–15 years.
- Council's Planning Agreements Policy, which allows contributions under planning agreements to be in the form of affordable housing (monetary payment, land or dedication of dwellings). The issue is planning agreements focus on site specific planning proposals, rather than precinct master plans.

State and local policies conclude that stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households with a focus on locations where lower income households are paying over 30% of their income on rent. The priority areas include Bankstown, Campsie, Lakemba, Punchbowl and Wiley Park, where housing stress is most common.

State and local policies recommend that Council prepare an Affordable Housing Contribution Scheme. The intent of the Scheme is for Council to own affordable housing dwellings that are rented to tenants within the very low to moderate income households. Councils that currently operate schemes in the Greater Sydney Region include Canada Bay, Randwick, Sydney, Waverley and Willoughby Councils.

Whilst the Scheme will not resolve the wider issue of housing stress in the Greater Sydney Region, it is an additional mechanism to provide more affordable housing to support very low to moderate income households who are experiencing housing stress as shown in Figure 1. The Scheme would apply to centres that are subject to Council's master planning process and where uplift is proposed to occur.

Figure 1: Housing continuum, initiatives and programs (Greater Sydney Region Plan, page 69)



What is the Affordable Housing Contribution Scheme?

The Scheme sets out how, where and at what rate contributions can be collected for affordable housing. A contribution is to be calculated based on the total residential gross floor area of the development to which the development application relates. The possible ways to make the contribution include:

- dedication of one or more affordable housing dwellings subject to certain criteria, or
- dedication of land subject to certain criteria, or
- a monetary contribution, or
- any combination of the three.

There are no 'savings' or 'credit' for existing floor space on the site, even if the building is being adapted and reused.

Council would use the dedication of dwellings, land and monetary contributions to develop, purchase and manage affordable housing. Council would also partner with a community housing provider to manage the tenancies. The community housing provider would select tenants within the very low to moderate household income brackets and seek rent based on 30% of the household income.

Where would the Scheme apply?

The Scheme would apply to centres that are subject to Council's master planning process and where uplift is proposed to occur. Uplift means a change of planning controls (such as floor space ratio) which enables greater residential density. This ensures contributions are drawn from the increase in land value generated by the uplift in keeping with the affordable housing targets established by State and local policies.

According to Council's Affordable Housing Strategy and Bankstown Master Plan, the Draft Scheme would initially apply to development in the Bankstown Strategic Centre that choose to benefit from the affordable housing option under the incentive height and floor space provision. In areas of uplift, it would be expected that a portion of the total residential gross floor area would be dedicated to Council for the purpose of affordable housing.

The viability testing undertaken as part of the Bankstown Master Plan suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time.

The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis. A staged implementation approach would be taken to allow the market to adjust.

According to the Affordable Housing Strategy, in future:

- Council's master planning process may identify other centres where the Scheme may apply, subject to viability testing.
- Council's Planning Agreements Policy will apply to site specific rezoning applications not identified by the Draft Scheme.

Why prepare this planning proposal?

The Environmental Planning and Assessment Act 1979 (section 7.32) sets out the requirements to implement the Scheme.

The requirements include preparing this planning proposal to reference the Scheme in Council's local environmental plans. This proposed amendment will enable Council to impose a condition on development consents to levy the affordable housing contribution.

PART 1—OBJECTIVES OR INTENDED OUTCOMES

The intended outcomes of this planning proposal are to amend the Bankstown Local Environmental Plan 2015, Canterbury Local Environmental Plan 2012 and Canterbury Bankstown Local Environmental Plan [Year] (PP–2020–684):

1. To ensure there are opportunities for very low to moderate income households to live in Canterbury Bankstown.
2. To facilitate a coordinated approach towards the provision of affordable housing.
3. To provide affordable housing on land where there is an increase in floor area, where a need for affordable housing is identified and where development viability can be maintained.
4. To permit the imposition of conditions relating to the provision of affordable housing.

PART 2—EXPLANATION OF PROVISIONS

This planning proposal will achieve the intended outcomes by including a new local provision that:

1. Identifies that the Affordable Housing Contribution Scheme will apply to development in the Bankstown Strategic Centre that:
 - choose to benefit from the affordable housing option under the incentive height and floor space provision, and
 - is located on land in accordance with the proposed Affordable Housing Contribution Scheme Map provided in Part 4 of the planning proposal.
2. Identifies the percentage of the total residential gross floor area of development that the affordable housing contribution requirement is to apply.

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

3. Imposes a condition on development consents that requires landowners and developers to satisfy the affordable housing contribution requirement by:
 - dedicating in favour of Council—
 - one or more dwellings, each having a gross floor area of not less than 50 square metres and each complying with the NSW Apartment Design Guide's solar access and natural ventilation requirements, with any remainder paid as a monetary contribution to Council, or
 - other land approved by Council in accordance with the Affordable Housing Contributions Scheme, with any remainder paid as a monetary contribution to the Council, or
 - if the person chooses, by monetary contribution to be calculated in accordance with the Affordable Housing Contribution Scheme.
4. Confirms there are no 'savings' or 'credit' for existing floor space on the site.

5. Excludes the following development from the affordable housing contribution requirement:
- Affordable housing or social housing that choose the affordable housing option under the incentive height and floor space provision, provided:
 - the affordable housing or social housing is managed by a registered community housing provider, and
 - the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity, to be confirmed with a covenant registered in the title of the site.
 - Development that provide on site infrastructure or a minimum 50% employment generating gross floor area under the incentive height and floor space provision.

PART 3—JUSTIFICATION

SECTION A—Need for the planning proposal

1. Is the planning proposal a result of an endorsed Local Strategic Planning Statement, strategic study or report?

Summary

Section 1.1—Connective City 2036

This planning proposal gives effect to *Connective City 2036* by implementing the Affordable Housing Contribution Scheme in accordance with Action E6.11.138 (page 75).

Section 1.2—Affordable Housing Contribution Scheme

The Affordable Housing Contribution Scheme proposes:

- a. To apply the affordable housing contribution requirement to development in the Bankstown Strategic Centre that choose to benefit from the affordable housing option under the incentive height and floor space provision, in areas shown on the proposed Affordable Housing Contribution Scheme Map provided in Part 4 of this planning proposal.

The viability testing undertaken as part of the Bankstown Master Plan suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time. The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.

- b. To stage the implementation of the affordable housing contribution requirement.

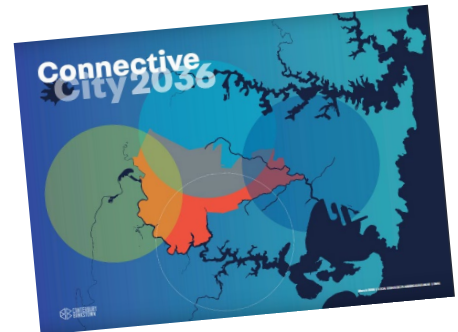
Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

The purpose of staging the requirement over time is to allow the market to adjust. By phasing in the requirement, it can be considered ahead of time in land purchases and development projects.

- c. To allow landowners and developers to satisfy the affordable housing contribution requirement by:
- dedicating in favour of Council—
 - one or more dwellings, each having a gross floor area of not less than 50 square metres and each complying with the NSW Apartment Design Guide’s solar access and natural ventilation requirements, with any remainder paid as a monetary contribution to Council, or
 - other land approved by Council in accordance with the Affordable Housing Contributions Scheme, with any remainder paid as a monetary contribution to the Council, or
 - if the person chooses, by monetary contribution to be calculated in accordance with the Affordable Housing Contribution Scheme.
- d. To confirm there are no ‘savings’ or ‘credit’ for existing floor space on the site.
- e. To exclude the following development from the affordable housing contribution requirement:
- Affordable housing or social housing that choose the affordable housing option under the incentive height and floor space provision, provided:
 - the affordable housing or social housing is managed by a registered community housing provider, and
 - the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity, to be confirmed with a covenant registered in the title of the site.
 - Development that provide on site infrastructure or a minimum 50% employment generating gross floor area under the incentive height and floor space provision.

1.1 *Connective City 2036*

This planning proposal is the result of the Local Strategic Planning Statement '*Connective City 2036*'. Council adopted *Connective City 2036* in 2019 and the Greater Sydney Commission has assured *Connective City 2036*, confirming it is consistent with State priorities.



Connective City 2036 is the first comprehensive strategic planning vision for Canterbury Bankstown, and looks at the most appropriate way to respond to the Greater Sydney Commission's requirement to deliver dwellings and jobs to 2036.

1.1.1 Need for affordable housing

Connective City 2036 identifies the need for more affordable housing to reduce the level of housing stress experienced by residents in Canterbury Bankstown. *Connective City 2036* found that (page 74):

- There is a need to provide affordable housing to support a range of demographic groups and to support members of the community who would otherwise rely on social housing.
- Renewal could displace lower income households, particularly those who live in older homes, which is generally more affordable. There is the need to explore initiatives to offset this displacement as part of the renewal processes.

To address this need, the Greater Sydney Commission proposes affordable rental housing targets in the range of 5–10% of new residential floor space, subject to viability. *Connective City 2036* proposes a more aspirational target of 15% of all new development in growth precincts (page 74).

1.1.2 Action to deliver more affordable housing

To address the need for more affordable housing, *Connective City 2036* recommends:

- To test a more aspirational target of 15% of all new development in growth precincts, subject to viability (Action E6.11.136) (page 75).
- To prepare the Draft Scheme (Action E6.11.138) (page 75).

The viability testing undertaken as part of the Bankstown Master Plan (pages 35, 119) suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time.

The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis. A staged implementation approach would be taken to allow the market to adjust.

This planning proposal gives effect to *Connective City 2036* by proposing to implement the Affordable Housing Contribution Scheme via Council’s local environmental plans.

1.2 Affordable Housing Contribution Scheme

According to the Department of Planning, Industry and Environment’s publication ‘*Guideline for Developing an Affordable Housing Contribution Scheme*’ (February 2019):

Affordable housing contribution schemes are council-led documents which set out how, where, and at what rate development contributions can be collected by councils for affordable housing. They also give local communities greater clarity about the affordable rental housing planned for in their areas, and affordable housing contribution schemes provide developers certainty and transparency about how affordable rental housing contributions will be determined, and the contribution rate that will be applied in a condition of consent (page 5).



Council must prepare an Affordable Housing Contribution Scheme in accordance with the Environmental Planning and Assessment Act 1979 and the SEPP 70. The Act (section 7.32) sets out the requirements that must be met to impose a condition on development consents to levy affordable housing contributions.

1.2.1 Steps to preparing the Affordable Housing Contribution Scheme

Figure 2 outlines the key steps to preparing the Affordable Housing Contribution Scheme.

Figure 2: Process for preparing an affordable housing contribution scheme
(Guideline for Developing an Affordable Housing Contribution Scheme, page 13)



1.2.2 Establish an evidence base (refer to Figure 2)

The data gathering and analyses that form the basis of the Housing Strategy and Affordable Housing Strategy have been used to inform the Affordable Housing Contribution Scheme.

In relation to identifying the need for more affordable housing to reduce the level of housing stress experienced by residents in Canterbury Bankstown, the Background Report to the Affordable Housing Strategy reads (page 13):

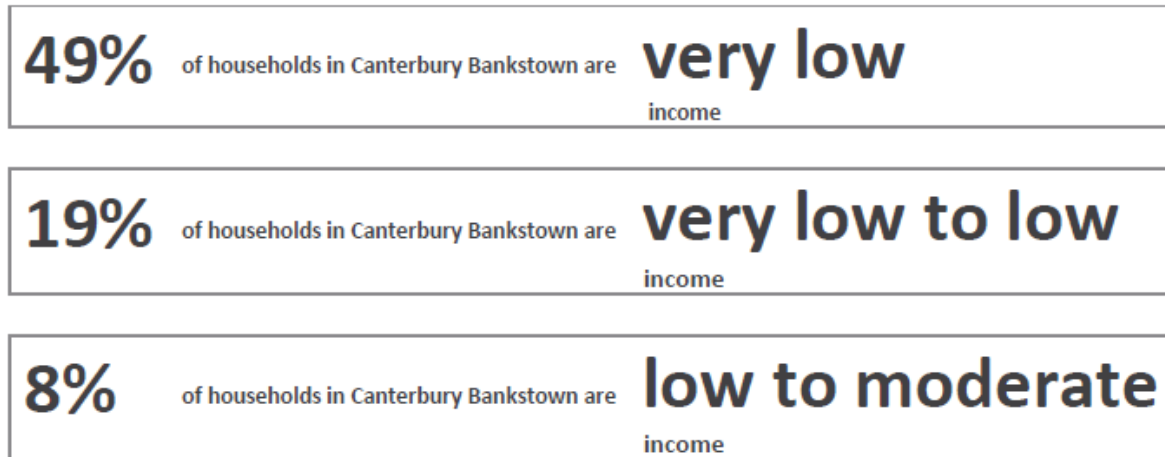
As of 2016, in Canterbury Bankstown there were 15,441 households that were renters experiencing rental stress. This represents 39.1% of renting households in the LGA (compared to 26.4% in Greater Sydney). As of 2016, in Canterbury Bankstown there were 5,707 households that had mortgages and were experiencing mortgage stress. This represents 17.8% of households with a mortgage in the LGA (compared to 10.3% in Greater Sydney). These figures indicate that renters experience housing stress more so than those households with a mortgage.

The Background Report reads (page 27):

A greater proportion of households in Canterbury Bankstown experience housing stress than in Greater Sydney, and this proportion has grown in the past decade. The Sydenham to Bankstown corridor is home to one of the largest concentrations of lower income renters in Sydney and has a relatively younger population compared to the rest of Canterbury Bankstown. Planning intervention is required to secure the economic and social benefits that affordable housing offers existing and future residents and workers in growing mixed use centres.

Increasing the stock of studio, one and two-bedroom dwellings in the LGA is likely to provide dwellings at a more affordable price point for rent and purchase, however historically these are still unaffordable for very low and low income renters (a growing demographic). Further increases to housing costs, disproportionate to income growth, is likely to maintain or increase levels of housing stress in the LGA. Stronger intervention is required to replace the stock of affordable dwellings in the area and achieve affordability for the relevant target groups of very low and low income households.

Figure 3: Household income in Canterbury Bankstown (Background Report, page 18)



The Background Report makes the following findings:

- Role of social housing (page 22): A portion of very low income households will seek housing in Land and Housing Corporation owned social housing dwellings through. Other households will continue to seek housing in the private market, often experiencing housing stress. Housing stress can cause labour and skill shortages as key demographics are pushed out of the area by unaffordable rents. A supply of low income housing that is not social housing can accommodate these groups (very low, low and moderate income households, key workers and students) that generate a wide employment base.
- Provide an increasing proportion of smaller, more affordable dwellings to meet the changing needs of households (page 37): It is suggested that the minimum size of affordable housing should be 50m², consistent to a one bedroom apartment under the Apartment Design Code. This is to ensure that reasonable, liveable sized apartments are delivered for rent.
- Rationale for capturing land value increment through relevant planning mechanisms (page 28): The NSW Environmental Planning and Assessment Act 1979 (the Act) provides the legislative framework for the provision of affordable housing by local government. This involves capturing a reasonable and equitable share of land value uplift created through the planning and development approvals process. Land value capture in the context of urban development involves a planning authority capturing public benefit from increased land value where the planning authority has increased the development potential of the land. Land value capture mechanisms are already part of the NSW planning scheme, such as Section 7.11 contributions, where the cost of infrastructure is recovered through a levy to development.

Planning agreements under Section 7.32 of the Act intend to capture a share of the unearned increase to private land values resulting from a rezoning.

The land value capture outlined as part of the affordable housing strategy are designed to gain a reasonable share of the increased land value on the basis that the unearned increment be shared by the planning authority whose planning activities (e.g. rezoning, maximum building height increase) resulted in land value uplift. It follows that a share of this unearned increment of land value uplift be used by the community as a public purpose. The level of profit yielded from land sale and development varies based on a range of market forces and can differ by place. Therefore, value uplift must be calculated within a local market or submarket context.

A precinct-specific land value capture mechanism, which uses the unearned increment of land value uplift to address housing affordability issues, is required to address the varying types of housing stress across Canterbury Bankstown. It is within Council's capacity to build policy that would grow a stock of affordable housing and ensure that it is managed with reference to the approaches outlined in this document. It is the state government's role to assess proposed changes to the LEP that Council puts forward, including an affordable housing contributions scheme and planning agreements.

1.2.3 Identify areas for rezoning (refer to Figure 2)

Based on the findings, the Background Report recommends prioritising the delivery of affordable housing in the centres of Bankstown, Campsie and Lakemba (page 29).

Figure 4: Top ten suburbs – households experiencing housing stress (Background Report, page 15)

Area	Number of households in stress	Total number of households	Percentage of households in stress
Campsie - Clemton Park	2,136	8,858	24.1
Bankstown CBD	1,989	6,714	29.6
Lakemba	1,640	5,195	31.6
Greenacre - Mount Lewis - Chullora	1,441	6,946	20.8
Punchbowl	1,413	5,914	23.9
Yagoona	1,197	5,513	21.7
Wiley Park	949	3,335	28.5
Belmore	859	4,550	18.9
Chester Hill	783	3,761	20.8
Riverwood	703	2,627	26.8
Revesby - Revesby Heights	685	5,358	12.8

At the Ordinary Meeting of 24 September 2019, Council considered the implementation of *Connective City 2036* in four stages, being:

- Stage 1 (immediately) – the consolidation of the Canterbury and Bankstown LEPs, alignment of Council’s current policy positions and giving effect to parts of *Connective City 2036*.
- Stage 2 (6 months following the gazettal of the Canterbury Bankstown LEP) – Prepare and exhibit the master plans for Bankstown and Campsie.
- Stage 3 (12–24 months following the gazettal of the Canterbury Bankstown LEP): Prepare and exhibit the master plans for Lakemba, Belmore and Canterbury.
- Stage 4 (24–36 months following gazettal of the Canterbury Bankstown LEP): Prepare and exhibit the master plans for Punchbowl, Wiley Park, Earlwood, Belfield, Croydon Park and other centres across Canterbury Bankstown.

In 2021, Council prepared and exhibited the Bankstown Master Plan in accordance with Stage 2 of the implementation of *Connective City 2036*.

The Bankstown Master Plan (pages 35, 119) found that *on sites achieving a significant uplift, of more than 1:1, it would be expected that a portion of residential floor space be dedicated to Council for the delivery of affordable housing.*

The Affordable Housing Contribution Scheme would therefore initially apply to development in the Bankstown Strategic Centre that choose to benefit from the affordable housing option under the incentive height and floor space provision. These areas are identified on the proposed Affordable Housing Contribution Scheme Map provided in Part 4 of this planning proposal. In future:

- Council’s master planning process may identify other centres where the Scheme may apply, subject to viability testing.
- Council’s Planning Agreements Policy will apply to site specific rezoning applications not identified by the Draft Scheme.

1.2.4 Establish an affordable housing contribution rate (refer to Figure 2)

The viability testing undertaken as part of the Bankstown Master Plan (pages 35, 119) suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time.

The viability testing recommends that 3% of the total residential gross floor area of development can be dedicated to Council, or paid as a monetary contribution at \$198 per square metre*.

* Note: Contribution rates will be adjusted on a quarterly basis, being the first days of March, June, September and December, to ensure that the contributions reflect the cost associated with the provision of affordable housing. Rates are adjusted with reference to movements in the median price for strata dwellings in Canterbury Bankstown. The median strata dwelling price is published quarterly in the NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata. The Rent and Sales Report is available on the NSW Government, Family and Community Services website.

This rate is considered financially feasible for development on the basis that a staged implementation approach would be taken. The purpose of staging the requirement over time is to allow the market to adjust. By phasing in the requirement, it can be considered ahead of time in land purchases and development projects.

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

The Scheme would allow landowners and developers to satisfy the affordable housing contribution requirement by:

- dedicating in favour of Council—
 - one or more dwellings, each having a gross floor area of not less than 50 square metres and each complying with the NSW Apartment Design Guide's solar access and natural ventilation requirements, with any remainder paid as a monetary contribution to Council, or
 - other land approved by Council in accordance with the Affordable Housing Contributions Scheme, with any remainder paid as a monetary contribution to the Council, or
- if the person chooses, by monetary contribution to be calculated in accordance with the Affordable Housing Contribution Scheme.

Council would use the dedication of dwellings, land and monetary contributions to develop, purchase and manage affordable housing. Council would also partner with a community housing provider to manage the tenancies. The community housing provider would select tenants within the very low to moderate household income brackets and seek rent based on 30% of the household income.

In addition, Council would be able to take monetary contributions in situations where the affordable housing dwellings are considered unsuitable or where the dedication of dwellings is deficit of more than 1 square metre. There would be no 'savings' or 'credit' for existing floor space on the site, even if the building is being adapted and reused.

Development to be excluded from the affordable housing contribution requirement include:

- Affordable housing or social housing that choose the affordable housing option under the incentive height and floor space provision, provided:
 - the affordable housing or social housing is managed by a registered community housing provider, and
 - the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity, to be confirmed with a covenant registered in the title of the site.
- Development that provide on site infrastructure or a minimum 50% employment generating gross floor area under the incentive height and floor space provision.

1.2.5 Produce scheme using template (refer to Figure 2)

Council prepared the Affordable Housing Contribution Scheme in accordance with State legislation and the Department of Planning, Industry and Environment's publication *Guideline for Developing an Affordable Housing Contribution Scheme* (February 2019).

1.2.6 Action to deliver affordable housing

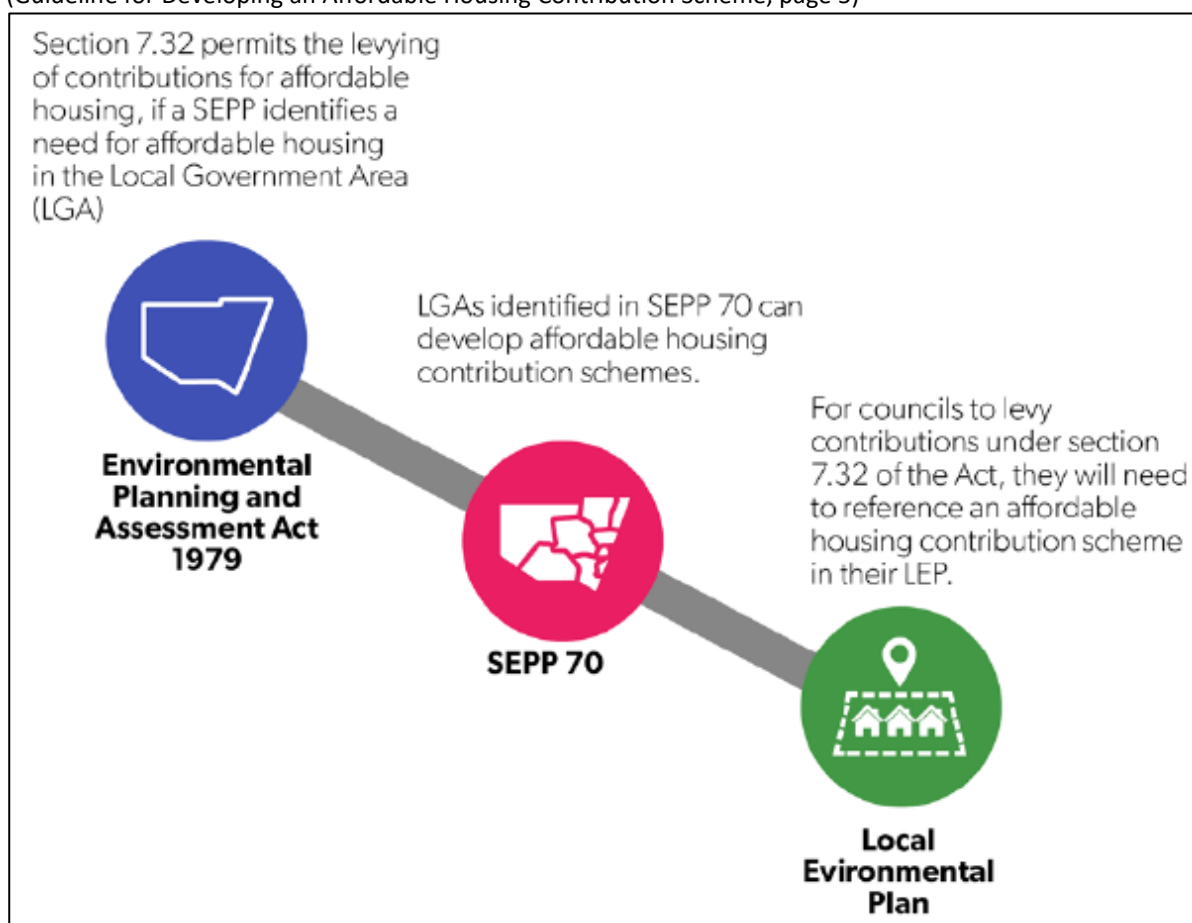
This planning proposal gives effect to the Affordable Housing Contribution Scheme by proposing to implement the Scheme via Council's local environmental plans.

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

This planning proposal is the best means of achieving the intended outcomes. The reason is State and local policies recommend that Council prepare an Affordable Housing Contribution Scheme as an additional mechanism to support very low to moderate income households who are experiencing housing stress.

The Environmental Planning and Assessment Act 1979 (section 7.32) sets out the requirements to implement the Scheme. The requirements include preparing this planning proposal to reference the Scheme in Council's local environmental plans. This proposed amendment will enable Council to impose a condition on development consents to levy the affordable housing contribution as shown in Figure 5.

Figure 5: Relationship between State legislation and Council's LEP to deliver affordable housing
(Guideline for Developing an Affordable Housing Contribution Scheme, page 5)



SECTION B—Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Summary

Section 3.1—NSW Housing Strategy

The NSW Housing Strategy identifies the need for affordable housing.

Section 3.2—Greater Sydney Region Plan and South District Plan

The Greater Sydney Region Plan (Strategy 11.1, page 72) and South District Plan (Action 17, page 44) recommend the preparation of an Affordable Rental Housing Target Scheme to support very low to moderate income households who are experiencing housing stress. This planning proposal gives effect to the NSW Housing Strategy, Greater Sydney Region Plan and South District Plan by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

3.1 NSW Housing Strategy

The NSW Housing Strategy represents a 20 year vision to deliver better housing outcomes in NSW. A key priority is to increase the supply of affordable housing to meet agreed targets (page 26).

In relation to implementation, the NSW Housing Strategy recognises:

- The NSW planning system helps to provide a greater supply of affordable housing via contributions (page 32).
- At the local level, councils are developing and implementing local strategic planning statements and local housing strategies, which identify local housing need based on contemporary analysis and establish local housing priorities. Concurrently with regional plans and policies, local strategic planning statements and local housing strategies will guide local development investment into the future (page 40).





This planning proposal gives effect to the NSW Housing Strategy by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

3.2 Greater Sydney Region Plan and South District Plan

The Plans present a vision for managing Greater Sydney's growth to 2036. According to the Greater Sydney Region Plan (page 68):

Across Greater Sydney, both home renters and purchasers face housing affordability challenges. Greater Sydney has been measured as being one of the least affordable housing markets globally 12 and is the least affordable Australian city. This has been exacerbated in the past five years by rapid home price growth. Factors that contribute to rental and purchasing affordability challenges include the limited availability of smaller dwellings to meet the growing proportion of small households as well as the growing distance between areas where housing is affordable and the location of employment and education opportunities ... A range of housing choices, including affordable rental housing reduces the need for people to go into social housing and also supports a pathway for people to move out of social housing.

The Plans recommend an Affordable Rental Housing Target Scheme as a mechanism to support very low to moderate income households who are experiencing housing stress.

 <p>NSW Greater Sydney Commission</p> <p>GREATER SYDNEY REGION PLAN</p> <p>A Metropolis of Three Cities</p> <p>— connecting people</p> <p>March 2018 Updated</p>	Greater Sydney Region Plan	Actions
	Objective 11 (page 70)	The Plan seeks to provide more affordable housing to meet changing demographic needs.
	Strategy 11.1 (page 72)	The Plan recommends an Affordable Rental Housing Target Scheme as a mechanism to deliver an additional supply of affordable housing for very low to low income households. The Scheme would set an affordable rental housing target generally in the range of 5–10% of new residential floor space subject to viability testing. The Scheme would apply in defined precincts prior to rezoning.
 <p>Greater Sydney Commission</p> <p>OUR GREATER SYDNEY 2056</p> <p>South District Plan</p> <p>— connecting communities</p> <p>March 2018 Updated</p>	South District Plan	Actions
	Planning Priority S5 (page 44)	The Plan seeks to provide more affordable housing to meet changing demographic needs.
	Action 17 (page 44)	The Plan recommends an Affordable Rental Housing Target Scheme as a mechanism to deliver an additional supply of affordable housing for very low to low income households. The Scheme would set an affordable rental housing target generally in the range of 5–10% of new residential floor space subject to viability testing. The Scheme would apply in defined precincts prior to rezoning.

This planning proposal gives effect to the Plans by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

The Affordable Housing Contribution Scheme would initially apply to development in the Bankstown Strategic Centre that choose to benefit from the affordable housing option under the incentive height and floor space provision. These areas are identified on the proposed Affordable Housing Contribution Scheme Map provided in Part 4 of this planning proposal.

The viability testing undertaken as part of the Bankstown Master Plan (pages 35, 119) suggests that development would not be able to achieve the 5–10% affordable rental housing target range set by the Greater Sydney Region Plan and South District Plan at this time.

The viability testing recommends that 3% of the total residential gross floor area of development can be dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.

This rate is considered financially feasible for development on the basis that a staged implementation approach would be taken. The purpose of staging the requirement over time is to allow the market to adjust. By phasing in the requirement, it can be considered ahead of time in land purchases and development projects.

In future:

- Council's master planning process may identify other centres where the Scheme may apply, subject to viability testing.
- Council's Planning Agreements Policy will apply to site specific rezoning applications not identified by the Draft Scheme.

4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Summary

Sections 4.1–4.5

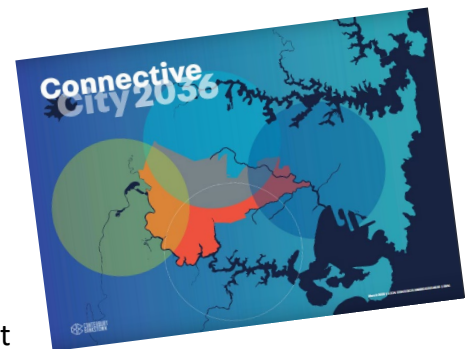
The following strategies recommend the preparation of an Affordable Housing Contribution Scheme to support very low to moderate income households who are experiencing housing stress:

- 4.1 *Connective City 2036* (Action E6.11.138, page 75).
- 4.2 Housing Strategy (Strategic Direction 5, pages 34, 132)
- 4.3 Affordable Housing Strategy (Actions 1.1 and 2.1–2.4, page 7)
- 4.4 Bankstown Master Plan (Action 1.3.3, page 35 and Action 9.2.1, page 119)

This planning proposal gives effect to the strategies by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

4.1 *Connective City 2036*

This planning proposal is the result of the Local Strategic Planning Statement '*Connective City 2036*'. Council adopted *Connective City 2036* in 2019 and the Greater Sydney Commission has assured *Connective City 2036*, confirming it is consistent with State priorities.



Connective City 2036 is the first comprehensive strategic planning vision for Canterbury Bankstown, and looks at the most appropriate way to respond to the Greater Sydney Commission's requirement to deliver dwellings and jobs to 2036.

4.1.1 Need for more affordable housing

Connective City 2036 identifies the need for more affordable housing to reduce the level of housing stress experienced by residents in Canterbury Bankstown. *Connective City 2036* found that (page 74):

- There is a need to provide affordable housing to support a range of demographic groups and to support members of the community who would otherwise rely on social housing.

- Renewal could displace lower income households, particularly those who live in older homes, which is generally more affordable. There is the need to explore initiatives to offset this displacement as part of the renewal processes.

To address this need, the Greater Sydney Commission proposes affordable rental housing targets in the range of 5–10% of new residential floor space, subject to viability. *Connective City 2036* proposes a more aspirational target of 15% of all new development in growth precincts (page 74).

4.1.2 Action to deliver more affordable housing

To address the need for more affordable housing, *Connective City 2036* recommends:

- To test a more aspirational target of 15% of all new development in growth precincts, subject to viability (Action E6.11.136) (page 75).
- To prepare the Draft Scheme (Action E6.11.138) (page 75).

The viability testing undertaken as part of the Bankstown Master Plan (pages 35, 119) suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time.

The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis. A staged implementation approach would be taken to allow the market to adjust.

This planning proposal gives effect to *Connective City 2036* by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

4.2 Housing Strategy

Council adopted its Housing Strategy in 2020 and the Department of Planning, Industry and Environment has endorsed the Housing Strategy.

The Housing Strategy provides a vision for how housing growth would be accommodated in Canterbury Bankstown.

The main purpose is to explore how much, where and what type of new housing Canterbury Bankstown should accommodate over the next 20 years, taking into consideration the vision set out by *Connective City 2036* and the need to provide more affordable housing to reduce the number of very low to moderate income earners in housing stress.



4.2.1 Need for more affordable housing

The Housing Strategy reads (page 79):

Housing stress is defined using the NATSEM (National Centre for Social and Economic Modelling) model. Under this model households are identified as being in stress if they fall within the lowest 40% of equivalised incomes (income adjusted by ABS using equivalence factors to remove the effect of household size and composition on income nationally), who are paying more than 30% of their usual gross weekly income on mortgage or rent repayments.

More specifically, a household is defined as being in housing stress when it:

- *Is in the bottom two quintiles (40 per cent) of equivalent disposable household income distribution (in the respective state or territory); and*
- *Has a housing cost (rent minus rent assistance or mortgage) that represents 30 per cent or more of its disposable income (exclusive of rent assistance).*

Mortgage stress and rental stress are defined using the same criteria but pertain only to households of those occupancy types. In the Canterbury-Bankstown LGA, the overall proportion of households experiencing housing stress at the 2016 Census was higher than the average for Greater Sydney (11.8%), with 18.6% of households earning in the lowest 40% paying rent or housing repayments greater than 30% of their household income. As of 2016, in Canterbury Bankstown there were 15,441 households that were renters experiencing rental stress. This represents 39.1% of renting households in the LGA (compared to 26.4% in Greater Sydney).

The analyses identified the need to retain and protect an existing affordable housing supply and that households are increasingly experiencing housing stress, particularly rental households. More affordable housing is required to support residents who are experiencing housing stress in centres or may be priced out of Canterbury Bankstown (page 93).

4.2.3 Vision and Guiding Principle

The vision is informed by community and stakeholder feedback through the community strategic planning process. The vision reads: *Canterbury Bankstown will have housing that meets the needs of its growing and changing population. New housing development will provide a mix of housing types and sizes in a range of price points. Larger developments will provide affordable housing. New housing growth will be targeted to centres that can offer residents a high level of amenity and access to jobs, services and community facilities* (page 131).

To achieve the vision, a Guiding Principle is to have more affordable housing to support the community and to reduce housing stress (page 10), with a focus on delivering affordable housing suited to very low to moderate income households and key workers (page 102). An Affordable Housing Strategy has been prepared concurrently with the Housing Strategy, which identifies the need for more affordable housing in Canterbury Bankstown.

4.2.4 Recommendations

Strategic Direction 5 recommends the preparation of an Affordable Housing Contribution Scheme to levy affordable housing contributions through the SEPP 70 (pages 34, 132):

The SEPP is a mechanism that allows specified councils to prepare an affordable housing contribution scheme for certain precincts, areas or developments within their local government area. The EP&A Act enables councils to levy contributions for affordable housing once a LGA is named in State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes) (SEPP 70).

In LGAs listed in SEPP 70, the council can seek to amend its LEP to reference an affordable rental housing contribution scheme and to levy affordable housing contributions. In February 2019, the NSW Department of Planning, Industry and Environment published an amendment to SEPP 70 and released a guideline including all councils across the State in SEPP 70, including Canterbury Bankstown. The aim is to make it easier for councils to prepare affordable housing contribution schemes and increase affordable housing across NSW.

Canterbury Bankstown Council can seek inclusion within SEPP 70 for precincts where, subject to feasibility, affordable housing contributions can be levied. An Affordable Housing Contribution Scheme and a planning proposal would need to be prepared prior to levying for affordable housing. In considering the provision of affordable housing as part of this local housing strategy, some relevant principles include:

- Affordable housing is to be created and managed so that a socially diverse residential population representative of all income groups is present in a locality.*
- Affordable housing is to be made available to a mix of very low, low and moderate income households.*
- Affordable housing is to be rented to appropriately qualified tenants and at an appropriate rate of gross household income.*
- Land provided for affordable housing is to be used for the purpose of the provision of affordable housing.*
- Monies collected from affordable housing, after deduction of normal landlord's expenses (including management and maintenance costs and all rates and taxes payable in connection with the dwellings), is generally to be used for the purpose of improving or replacing affordable housing or for providing additional affordable housing.*
- Affordable housing is to be constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the vicinity.*

4.2.5 Action to deliver affordable housing

This planning proposal gives effect to the Housing Strategy by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

4.3 Affordable Housing Strategy

Council adopted its Affordable Housing Strategy in 2020 to provide the key actions and directions to reduce the level of housing stress experienced by residents.

The Background Report supports the Affordable Housing Strategy. It sets out a definition and benchmarks for affordable housing in accordance with relevant legislation, and summarises research and analyses from the Housing Strategy to support the Affordable Housing Strategy.



It also outlines statutory mechanisms and initiatives that could be used to grow the stock of affordable rental housing across Canterbury Bankstown. Section 1.1 of this planning proposal summarises the key findings of the Background Report.

4.3.1 Need for more affordable housing

The Affordable Housing Strategy identifies the need for more affordable housing and reads (page 4):

While some people who are on very low incomes live in social or public housing, other people are in circumstances where they struggle to pay for their housing in the private market. Being priced out of areas or having to sacrifice other necessities to pay for housing have consequences that negatively affect quality of life. Poor housing affordability results in economic and social issues including:

- *Low income households forced out of market.*
- *Loss of talent, essential and professional workers.*
- *Skilled labour shortages*
- *Reduced productivity, creativity, innovation*
- *Rising inequalities within cities*
- *Increasing social disadvantage*
- *Loss of engagement and participation between people in a mixed community - social cohesion*
- *Loss of cultural vitality - artists and musicians*
- *Loss of social bonds/links - i.e. stay in an area longer; variety/diverse housing offers options for different life stages.*

The ongoing loss of more affordable dwellings through redevelopment and gentrification, combined with increasing housing costs, is leading to an undersupply of affordable accommodation in Greater Sydney. Local government can play a role in facilitating affordable housing delivery and promoting the provision/retention of affordable housing through strategic planning, the regulation of housing supply and its form, infrastructure planning and pricing policies, rate setting and community service delivery. Through careful planning, the application of these functions can create opportunities for additional housing, guide the form of housing in response to needs, and influence the cost of production and the availability of services.

Based on the analyses, the Guiding Principles are (page 6):

- *Increase the supply of affordable housing in Canterbury Bankstown.*
- *Locate affordable housing near established centres to allow residents better access to transport, jobs and services.*
- *Focus on alleviating housing stress for very low and low income households and key workers.*
- *Establish clear processes for the delivery and dedication of affordable housing dwellings.*

4.3.2 Recommendations and actions to deliver more affordable housing

This planning proposal gives effect to the Affordable Housing Strategy by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans as outlined in the following actions:

Affordable Housing Strategy–Recommended Actions (page 7)		Planning Proposal Actions
1.1	In future master planning of growth precincts, ensure that the affordable housing targets established by Council's Community Strategic Plan and Local Strategic Planning Statement are tested and an appropriate levy be applied subject to viability and feasibility testing.	This planning proposal implements the Bankstown Master Plan, which determined the contribution rate based on viability testing.
2.1	Include provisions in the LEP via a Planning Proposal to enable Council to: <ul style="list-style-type: none"> • Reference an Affordable Housing Contribution Scheme in the LEP(s) • Require an affordable housing contribution, consistent with an affordable housing contribution scheme. 	This planning proposal references the Affordable Housing Contribution Scheme in Council's LEPs.
2.2	Prepare an Affordable Housing Contribution Scheme that identifies sites/precincts where affordable housing contributions are required and the rate of the contribution. The Scheme is to include a methodology for determining feasibility, which is to be applied as part of the master plans. The rate is to be based on feasibility testing for each site/precinct.	Council prepared the Affordable Housing Contribution Scheme in accordance with State legislation and the Department of Planning, Industry and Environment's

	Initially, this would apply in Bankstown and Campsie following the completion of master plans for those centres, however further sites and precincts will be added to the scheme as they are master planned. Following testing, implement a contribution rate for development applications in areas where uplift has recently or is proposed to occur. Dedicated dwellings will need to be a mix of sizes, types and locations within a building or development to ensure an acceptable standard of amenity and a mix of dwelling types to meet the needs of a range of households.	publication <i>Guideline for Developing an Affordable Housing Contribution Scheme</i> (February 2019).
2.3	<p>In relation to planning proposals, it is proposed to amend the Planning Agreements Policy to conform with the Ministerial Direction (March 2019) and include a requirement for a 5% affordable housing contribution for planning proposals resulting in uplift of more than 1,000 sqm of residential floor space, unless otherwise agreed with Council.</p> <p>An alternative rate may be negotiated subject to feasibility testing and/or where other types of public benefits are warranted. Feasibility testing provided by a proponent is to be the subject of independent verification.</p> <p>Other types of public benefits are to be considered as part of the broader Planning Agreement Policy on a case by case basis, including consideration of prioritisation of other community infrastructure. Dedicated dwellings will need to be a mix of sizes, types and locations within a building or development to ensure an acceptable standard of amenity and a mix of dwelling types to meet the needs of a range of households.</p>	At the Ordinary Meeting of 23 June 2020, Council adopted amendments to the Planning Agreements Policy to implement this action.
2.4	<p>Undertake regular reviews of the contribution rates in the Affordable Housing Contribution Scheme with the aim of increasing affordable housing contributions by 1% annually, subject to feasibility testing and market considerations.</p> <p>Add new precincts/sites to the Affordable Housing Contribution Scheme as they are master planned, with affordable housing contributions to be determined for each precinct/site through feasibility testing of built form controls (tipping point analysis). These master plans should test the provision of 15 percent of residential floor space as affordable housing, consistent with <i>CBCity 2028</i> and <i>Connective City 2036</i> actions</p>	Council's master planning process may identify other centres where the Scheme may apply, subject to viability testing.

4.4 Bankstown Master Plan

Council prepared and exhibited the Bankstown Master Plan in 2021.

The Master Plans are growth strategies that leverage the opportunities provided by investment in infrastructure and services and sets the foundations for revised planning controls to deliver on the established vision for the Bankstown Strategic Centre. To realise this future, the Master Plan will:

- Set a 20 year vision to 2036.
- Establish a spatial framework for growth and change across the strategic centres.
- Inform future changes to planning controls.
- Assist Council advocate for infrastructure delivery and investment.



4.4.1 Need for more affordable housing

The Bankstown Master Plan (pages 35, 119) identifies that the ongoing loss of affordable dwelling through redevelopment and gentrification, combined with increasing housing costs, has led to a significant undersupply of affordable accommodation in Bankstown.

The lack of low cost housing detrimentally affects the quality of life of individuals and families. Households are likely to sacrifice other basic necessities to pay for housing. The loss of young families and workers in lower paid service jobs can also adversely affect local economies by reducing the local workforce.

Council's Housing Strategy and Affordable Housing Strategy identify a need for the delivery of affordable housing in Canterbury Bankstown. As per the affordable housing directions in the South District Plan and Affordable Housing Strategy, in areas of uplift, it would be expected that development contribute to the delivery of affordable housing where viable.

Affordable housing is different to the concept of housing affordability. Housing affordability refers to the relationship between housing costs and household incomes (if housing costs rise more quickly than income, housing affordability decreases).

Affordable housing is a specific type of housing defined under the Environmental Planning and Assessment Act 1979. Affordable housing means housing that specifically targeted for people on very low to moderate incomes as set out in the Affordable Housing Strategy. It is generally subsidised or offered at below market rents and managed by community housing providers, who are not-for-profit organisations that build and/or manage housing. The SEPP 70 is the overarching planning mechanism that allows Council to prepare an Affordable Housing Contribution Scheme for certain precincts within the local environmental plan.

4.4.2 Recommendations

The Bankstown Master Plan recommends:

- Action 1.3.3 (page 35)
Prepare an Affordable Housing Scheme which outlines the process for contributing towards the delivery of affordable housing.
- Action 9.2.1 (page 119)
Introduce an Affordable Housing Contributions Scheme in the LEP as part of achieving an incentive height and floor space ratio, requiring new developments to provide 3% of total dwellings as affordable dwellings, or a monetary contribution of \$198 per square metre* of total residential gross floor area to be dedicated to the development of affordable housing. Developments providing on site infrastructure and/or substantial proportions of floor space for employment generating floor space will be exempt from the provision of affordable housing.

*Note: Contribution rates will be adjusted on a quarterly basis, being the first days of March, June, September and December, to ensure that the contributions reflect the cost associated with the provision of affordable housing. Rates are adjusted with reference to movements in the median price for strata dwellings in Canterbury Bankstown. The median strata dwelling price is published quarterly in the NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata. The Rent and Sales Report is available on the NSW Government, Family and Community Services website.

4.4.3 Recommended areas to apply the Scheme

The Bankstown Master Plan (pages 35, 119) found that *on sites achieving a significant uplift, of more than 1:1, it would be expected that a portion of residential floor space be dedicated to Council for the delivery of affordable housing*. These areas are shown on the proposed Affordable Housing Contribution Scheme Map provided in Part 4 of this planning proposal.

4.4.4 Viability testing to support the Scheme

The viability testing undertaken as part of the Bankstown Master Plan (pages 35, 119) suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time. The viability testing recommends that 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.

A staged implementation approach would be taken to allow the market to adjust. By phasing in the requirement, it can be considered ahead of time in land purchases and development projects.

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

4.4.5 Action to deliver more affordable housing

This planning proposal gives effect to the Bankstown Master Plan by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

This planning proposal is consistent with applicable State Environmental Planning Policies as summarised in Attachment A, namely the State Environmental Planning Policy No. 70–Affordable Housing (Revised Schemes).

5.1 State Environmental Planning Policy No. 70–Affordable Housing (Revised Schemes)

An objective of the Environmental Planning and Assessment Act 1979 is to promote the delivery and maintenance of affordable housing. The Act (section 7.32) enables councils to levy contributions for affordable housing.

The aims of the SEPP 70 are to identify that there is a need for affordable housing, describe the kinds of households for which affordable housing may be provided, and make a requirement with respect to the imposition of conditions relating to the provision of affordable housing.

The SEPP 70 provides the mechanism for Council to develop an Affordable Housing Contribution Scheme and to levy developer contributions for affordable housing.

To activate the mechanism, the Act requires the SEPP 70 to name a council's local government area. Once this occurs, a council can seek to amend its local environmental plan to have reference to an Affordable Housing Contribution Scheme and to levy affordable housing contributions. According to the Act (section 7.32), any condition imposed on a development consent must comply with the requirements of this Policy, be authorised by an LEP and must be in accordance with an Affordable Housing Contribution Scheme.

In February 2019, the Department of Planning, Industry and Environment amended the SEPP 70 to include all councils across NSW (thus meeting the Act's requirements of a council being named in a SEPP). The amendment removes the administrative step of entering a local government area into the SEPP 70, thereby expediting Council's ability to investigate and develop an Affordable Housing Contribution Scheme.

This planning proposal responds to the change in circumstances as a result of the SEPP Amendment. This planning proposal gives effect to the SEPP 70 by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans. Section 1.2 of this planning proposal summarises the Affordable Housing Contribution Scheme.

6. Is the planning proposal consistent with applicable Ministerial Directions?

6.1 Consistency with applicable Ministerial Directions

This planning proposal is consistent with applicable Ministerial Directions as summarised in Attachment B, namely:

- Ministerial Direction 1.1–Business and Industrial Zones
- Ministerial Direction 3.1–Residential Zones
- Ministerial Direction 5.10–Implementation of Regional Plans.

Ministerial Direction	Objectives	Application	Consistency
Ministerial Direction 1.1	To protect employment land in business zones. To support the viability of identified centres.	This planning proposal applies to the business zones within the Bankstown Strategic Centre.	This planning proposal is consistent with clause 4 as it implements the directions set by the Master Plan, as outlined in Section 4.4 of this planning proposal. This planning proposal also retains the areas and locations of existing business zones, and does not reduce the total potential floor space area for employment uses and related public services in business zones.
Ministerial Direction 3.1	To encourage a variety and choice of housing types to provide for existing and future housing needs.	This planning proposal applies to the residential zones within the Bankstown Strategic Centre.	This planning proposal is consistent with clauses 4 and 5 as it encourages the provision of housing, and does not contain provisions which will reduce the permissible residential density of land.
Ministerial Direction 5.10	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	This planning proposal applies to land within the Greater Sydney Region.	This planning proposal is consistent with the Greater Sydney Region Plan and South District Plan as outlined in Section 3.2 of this planning proposal.

6.2 Inconsistency with applicable Ministerial Directions

This planning proposal is inconsistent with the Ministerial Direction 6.3 in relation to site specific provisions.

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. This planning proposal is inconsistent with clause 4(c) as it proposes to impose a development requirement in addition to those already contained in the principal environmental planning instruments being amended.

Clause 6 states that a planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.

This planning proposal satisfies clause 6 as it implements the Affordable Housing Contribution Scheme via Council's local environmental plans.

SECTION C—Environmental, Social and Economic Impact

- 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

This planning proposal will not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

- 8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

There are no other likely environmental effects as a result of this planning proposal.

- 9. Has the planning proposal adequately addressed any social and economic effects?**

According to the South District Plan, *housing has a dual social and economic role across Greater Sydney. Communities require housing that meets changing demographic needs over time and that provides stability. At the same time housing has an economic productivity role by providing housing choice and affordability for a cross section of workers (page 44).*

The Background Report to the Affordable Housing Strategy reads (page 27):

A greater proportion of households in Canterbury Bankstown experience housing stress than in Greater Sydney, and this proportion has grown in the past decade. The Sydenham to Bankstown corridor is home to one of the largest concentrations of lower income renters in Sydney and has a relatively younger population compared to the rest of Canterbury Bankstown. Planning intervention is required to secure the economic and social benefits that affordable housing offers existing and future residents and workers in growing mixed use centres.

This planning proposal adequately addresses the social and economic effects by proposing to implement the Affordable Housing Contribution Scheme via Council's local environmental plans.

Summary**Section 9.1–Housing stress and the need for more affordable housing**

- Households are increasingly experiencing housing stress, particularly rental households.

Section 9.2–Existing mechanisms to provide affordable housing

- Social housing is not meeting demand.
- The availability of the affordable housing supply under the Affordable Rental Housing SEPP is limited to 10–15 years.
- Planning agreements focus on site specific planning proposals, rather than precinct master plans.
- Stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households with a focus on locations where lower income households are paying over 30% of their income on rent.

Section 9.3–Affordable Housing Contribution Scheme

- State and local policies recommend that Council prepare an Affordable Housing Contribution Scheme to support households who are experiencing housing stress.

Section 9.4–Preliminary economic advice to support the Scheme

- Prioritise more affordable housing in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl, where housing stress is most common.
- Formulate affordable housing contributions rates concurrent with determining built form planning controls as part of the master planning process to be undertaken for centres.

Section 9.5–Viability testing to support the Scheme in Bankstown

- 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.
- A staged implementation approach would be taken to allow the market to adjust.

9.1 Housing stress and the need for more affordable housing

With a 2019 population of around 380,000, Canterbury Bankstown is the most populous local government area within the Greater Sydney Region. The population is forecast to grow to 500,000 by 2036.

According to demographic trends, more people are renting. The share of households renting has risen by approximately 4% since 2006, becoming the most prevalent tenure type in Canterbury Bankstown, with outright and mortgage base ownership not far behind. Most households in Canterbury Bankstown pay \$450–\$549 in rent, and most household earnings range from \$400–\$1,249 per week (equivalised).

Figure 6: Tenure type totals and growth rates in Canterbury Bankstown (2006–2016)

Year	Owned outright	Owned with a mortgage	Being purchased under a rent/buy scheme	Rented	Being occupied rent-free	Being occupied under a life tenure scheme	Other tenure type
2016	32,638	31,908	121	38,521	985	295	446
2011	33,712	31,827	380	32,784	801	231	483
2006	34,717	27,825	345	31,528	755	208	360
Growth (Total)	-2,079	4,083	-224	6,993	230	87	86
Growth (CAGR %)	-3.04%	7.09%	-40.78%	10.54%	14.22%	19.09%	11.31%

Source: ABS Census 2006, 2011 and 2016 (TableBuilder Pro)

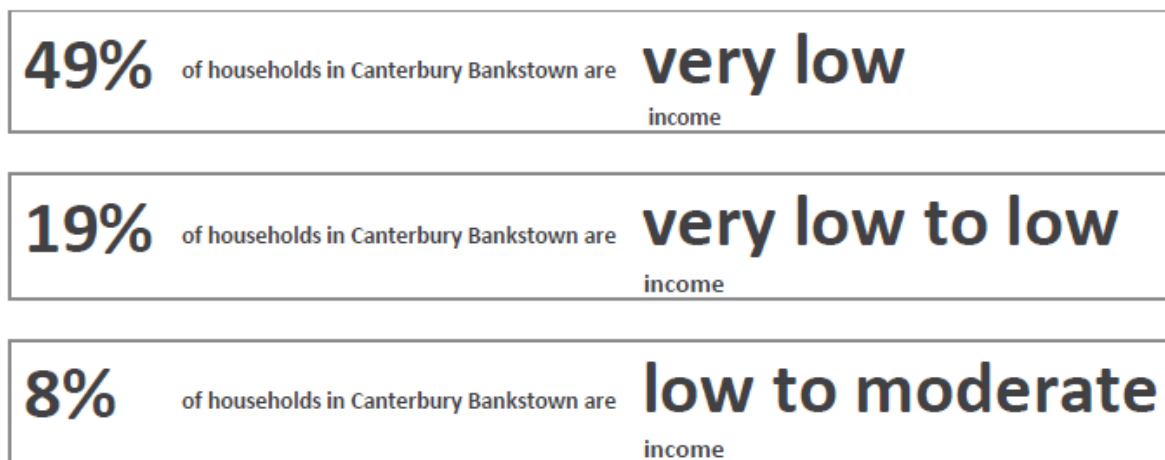
The Background Report found 17.8% of households were experiencing mortgage stress and 39.1% were experiencing rental stress. The Background Report reads (page 13):

In the Canterbury Bankstown LGA, the overall proportion of households experiencing housing stress (either rental or mortgage stress) at the 2016 Census was higher than the average for Greater Sydney (11.8%), with 18.6 per cent of households earning in the lowest 40 per cent paying rent or housing repayments greater than 30 per cent of their household income. As of 2016, in Canterbury Bankstown there were 15,441 households that were renters experiencing rental stress. This represents 39.1% of renting households in the LGA (compared to 26.4% in Greater Sydney). As of 2016, in Canterbury Bankstown there were 5,707 households that had mortgages and were experiencing mortgage stress. This represents 17.8% of households with a mortgage in the LGA (compared to 10.3% in Greater Sydney).



Almost 22,000 households experience housing stress in Canterbury Bankstown, or 18.6% compared to 11.8% in Greater Sydney. Households on moderate, low or very low incomes and key workers, who spend more than 30 per cent of their income on housing are impacted in their ability to pay for essential items like food, clothing, transport and utilities and are said to be experiencing housing stress. Affordable housing is targeted specifically to these groups to assist these households to remain in the private housing market.

Figure 7: Household income in Canterbury Bankstown (Background Report, page 18)



As shown in Figure 8, the top suburbs by number of households experiencing rental and mortgage stress are Bankstown, Campsie and Lakemba.

Figure 8: Top ten suburbs – households experiencing housing stress (Background Report, page 15)

Area	Number of households in stress	Total number of households	Percentage of households in stress
Campsie - Clemton Park	2,136	8,858	24.1
Bankstown CBD	1,989	6,714	29.6
Lakemba	1,640	5,195	31.6
Greenacre - Mount Lewis - Chullora	1,441	6,946	20.8
Punchbowl	1,413	5,914	23.9
Yagoona	1,197	5,513	21.7
Wiley Park	949	3,335	28.5
Belmore	859	4,550	18.9
Chester Hill	783	3,761	20.8
Riverwood	703	2,627	26.8
Revesby - Revesby Heights	685	5,358	12.8

Implications

- Households are increasingly experiencing housing stress, particularly rental households.

9.2 Existing mechanisms to provide affordable housing

9.2.1 Definition

Affordable housing is where households who are considered to have very low, low or moderate incomes are paying less than 30% of their gross income on rent or mortgage repayments. This ratio is considered generally sufficient to meet other basic living costs such as food, clothing, transport, medical care and education.

The SEPP 70 defines affordable housing as:

For the purposes of the definition of affordable housing in section 1.4 (1) of the Act, very low income households, low income households and moderate income households are those whose gross incomes fall within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) or the Rest of NSW (Greater Capital City Statistical Area) according to the Australian Bureau of Statistics:

<i>Very low income household</i>	<i>less than 50%</i>
<i>Low income household</i>	<i>50 or more but less than 80%</i>
<i>Moderate income household</i>	<i>80–120%</i>

9.2.2 Social housing

As of 30 June 2018, there were 11,437 social housing residential dwellings in Canterbury Bankstown. Public housing accounted for 77% of these dwellings and community housing accounted for 22%.

According to the NSW Department of Communities and Justice's guide to expected waiting times for social housing at 30 June 2020, the waiting time for a one bedroom dwelling is 5–10 years and the waiting time for all other dwellings is 10+ years. There are over 2,800 applicants on the waitlist for social housing. The issue is social housing is not meeting demand.

Figure 9: Existing supply of affordable housing in Canterbury Bankstown

	Public Housing		Aboriginal Housing Office		Community Housing		Indigenous Community Housing		Total
	No.	%	No.	%	No.	%	No.	%	
Burwood	368	82.9	5	1.1	70	15.8	1	0.2	444
Canada Bay	783	78.9	6	0.6	203	20.5	0	0.0	992
Canterbury-Bankstown	8,841	77.1	106	0.9	2,510	21.9	16	0.1	11,473
Inner West	2,034	57.5	130	3.7	1,327	37.5	44	1.2	3,535
Strathfield	537	80.9	3	0.5	124	18.7	0	0.0	664
Sydney	4,769	88.8	46	0.9	549	10.2	7	0.1	5,370
Sydney district	17,332	77.1	296	1.3	4,783	21.3	68	0.3	22,478
NSW	111,341	73.4	4,603	3.0	30,757	20.3	4,971	5.3	151,672

Source: FACS Administrative Data, unpublished.

9.2.3 State Environmental Planning Policy (Affordable Rental Housing) 2009

The State Environmental Planning Policy (Affordable Rental Housing) 2009 encourages development to provide affordable housing by offering bonus floor space.

In relation to the existing supply of affordable housing, *accurate data has been difficult to obtain as there are a number of housing providers managing affordable housing across the city* (Housing Strategy, page 78).

The issue is the availability of the affordable housing supply is limited to 10–15 years.

9.2.4 Council's Planning Agreements Policy

At the Ordinary Meeting of 23 June 2020, Council adopted amendments to the Planning Agreements Policy in accordance with the Affordable Housing Strategy. Where a planning proposal is seeking an uplift of residential floor space that exceeds 1,000m² of gross floor area, the equivalent of at least 5% of the increased residential floor space may be dedicated to Council in the form of dwellings or as a monetary payment for the purpose of affordable housing. An alternative rate may be negotiated subject to feasibility testing (page 14). To date, there are no planning agreements for affordable housing.

The issue is the process to negotiate with landowners focuses on site specific planning proposals, rather than precinct master plans which involve multiple landowners over a wide area.

9.2.5 Rationale for more affordable housing in Canterbury Bankstown

The Background Report reads (page 27):

The data above provides evidence that not enough affordable housing is provided through the market. Less than one percent of the rental market for two-bedroom apartments is considered affordable for a very low-income household. People on very low incomes are priced out of almost the entire rental market, and usually enter housing stress, receive rental assistance or live in social housing to meet basic housing needs. In Canterbury Bankstown, 49% of households are considered to have a very low-income (less than 50% of Greater Sydney median income), which indicates that Canterbury Bankstown is significantly vulnerable to rising housing costs in the context of Greater Sydney.

In 2016, 72% of two-bedroom houses in Canterbury Bankstown were affordable for renters on a low-income. There is a scarcity of social housing in the LGA and the expected wait time for social housing is over ten years. Very low- and low-income households are also likely to be excluded from affordable purchases in Canterbury Bankstown LGA in the future, given increasing housing costs and only a small pipeline of social dwellings. Moderate-income households have more options for rent, although this represents between 3 and 8 percent of the population. One hundred percent of the rental market for two-bedroom houses is affordable for medium income households and 91% of the market of three-bedroom houses are affordable for moderate income households.

As per the Draft Canterbury Bankstown Housing Strategy, the City will deliver 50,000 homes by 2036. The LSPS aims for 80% of this growth to be directed to activity centres, where there is a greater proportion of renters experiencing housing stress. Increasing the stock of studio, one and two-bedroom dwellings in the LGA is likely to provide dwellings at a more affordable price point for rent and purchase, however historically these are still unaffordable for very low and low income renters (a growing demographic). Further increases to housing costs, disproportionate to income growth, is likely to maintain or increase levels of housing stress in the LGA.

The implication is stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households.

Implications

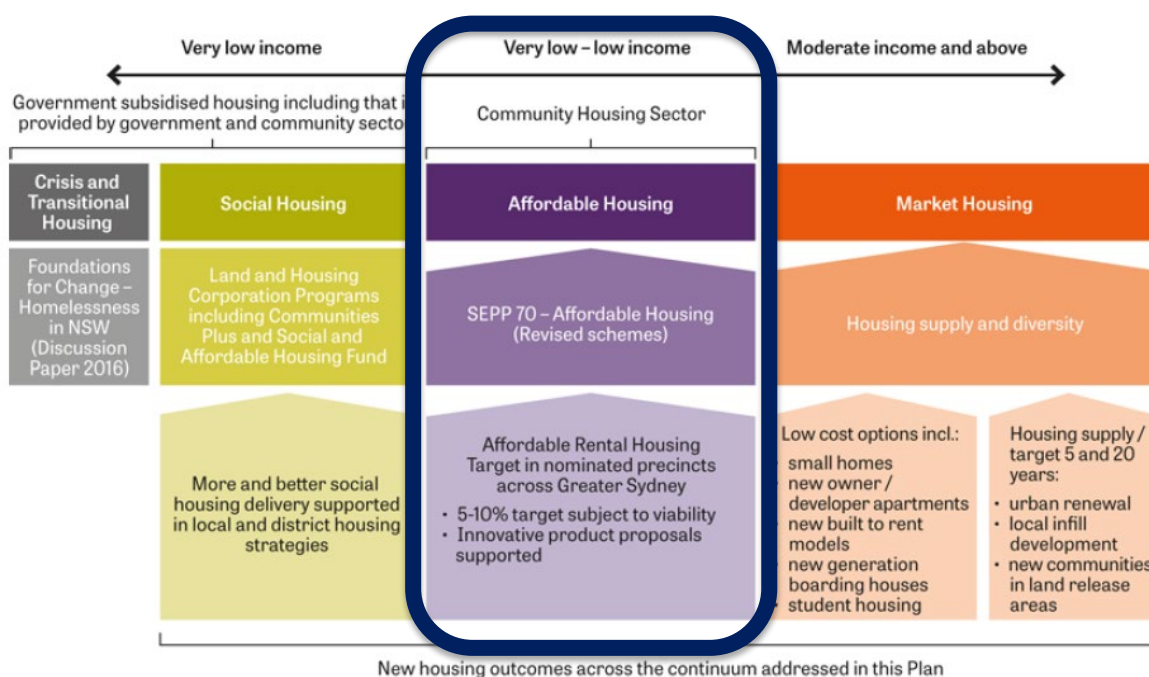
- Social housing is not meeting demand.
- The availability of the affordable housing supply under the Affordable Rental Housing SEPP is limited to 10–15 years.
- Planning agreements focus on site specific planning proposals, rather than precinct master plans.
- Stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households with a focus on locations where lower income households are paying over 30% of their income on rent.

9.3 Affordable Housing Contribution Scheme

State and local policies recommend that Council prepare an Affordable Housing Contribution Scheme. The intent of the Scheme is for Council to own affordable housing dwellings that are rented to tenants within the very low to moderate income households. Councils that currently operate a Scheme in the Greater Sydney Region include Canada Bay, Randwick, Sydney, Waverley and Willoughby Councils.

Whilst the Scheme will not resolve the wider issue of housing stress in the Greater Sydney Region, it is an additional mechanism to provide more affordable housing to support very low to moderate income households who are experiencing housing stress as shown in Figure 10. The Scheme would apply to centres that are subject to Council's master planning process and where uplift is proposed to occur.

Figure 10: Housing continuum, initiatives and programs (Greater Sydney Region Plan, page 69)



The Scheme sets out how, where and at what rate contributions can be collected for affordable housing. A contribution is to be calculated based on the total residential gross floor area of the development to which the development application relates. The possible ways to make the contribution include:

- dedication of one or more affordable housing dwellings subject to certain criteria, or
- dedication of land subject to certain criteria, or
- a monetary contribution, or
- any combination of the three.

There are no 'savings' or 'credit' for existing floor space on the site, even if the building is being adapted and reused.

Council would use the dedication of dwellings, land and monetary contributions to develop, purchase and manage affordable housing. Council would also partner with a community housing provider to manage the tenancies. The community housing provider would select tenants within the very low to moderate household income brackets and seek rent based on 30% of the household income. Section 1.2 of this planning proposal summarises the Affordable Housing Contribution Scheme.

Implications

- State and local policies recommend that Council prepare an Affordable Housing Contribution Scheme to support households who are experiencing housing stress.

9.4 Preliminary economic advice to support the Scheme

To understand the economic impacts of the proposed affordable housing contributions, Council commissioned Hill PDA to provide independent economic advice, which informed the Background Report to the Affordable Housing Strategy. The key findings are (page 74):

- *The contribution rates may not be viable in all scenarios due to factors such as land purchase price, construction cost escalation and market absorption of the end products. It is likely that larger projects seeking higher uplifts have a greater capacity of absorbing an affordable housing contribution levy.*
- *Our results revealed that areas with a strong residential market such as Bankstown and Canterbury show that development is not adversely affected if an affordable housing contribution provision is introduced. However, secondary markets such as Chester Hill show a sensitivity towards the affordable housing levy. We would recommend either a lower affordable housing contribution or permit a site by site open-book assessment in areas considered to be secondary residential locations.*
- *Our sensitivity analysis showed that as the residential unit market recovers to previous peak values, more favourable development margins are achievable, increasing a project's possibility of absorbing the contribution rate levy in the developer margin.*
- *To ensure a wide acceptance to the concept of affordable housing, we would recommend the following:*
 - *Adequate transition period to ensure current DAs are not affected*
 - *Early communication to the industry to ensure the cost of providing affordable housing are priced into development site acquisition. This is to avoid unrealistic owner expectations.*

The key recommendations are (page 75):

- *Affordable housing should be focused on key areas to support a strong employment base and social cohesion.*
 - *Affordable housing could be prioritised in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl where housing stress is most common.*
 - *Affordable housing should be directed towards very low and low income households.*
 - *Key worker housing should be prioritised in Bankstown and Campsie.*
- *Council-led planning intervention that generates affordable housing stock is required in Canterbury Bankstown to address social and economic inequality. This can include:*
 - *Leveraging affordable housing during voluntary planning agreements.*
 - *Implementing an affordable housing contribution scheme to acquire new dwellings in value capture scenarios.*
- *Based on these findings it is appropriate to formulate affordable housing contributions rates concurrent with determining built form planning controls as part of the master planning process to be undertaken for centres.*

Implications

- Prioritise affordable housing in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl, where housing stress is most common.
- Formulate affordable housing contributions rates concurrent with determining built form planning controls as part of the master planning process to be undertaken for centres.

9.5 Viability testing to support the Scheme in Bankstown

To understand the economic impacts of the proposed affordable housing contributions in the Bankstown Strategic Centre, Council sought independent economic advice to undertake viability testing in these strategic centres. Council commissioned Atlas Urban Economics to undertake the viability testing, which informed the Master Plan.

The viability testing suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time. Viability testing recommends that 3% of the total residential gross floor area of development can be dedicated to Council, or paid as a monetary contribution at \$198 per square metre*.

* Note: Contribution rates will be adjusted on a quarterly basis, being the first days of March, June, September and December, to ensure that the contributions reflect the cost associated with the provision of affordable housing. Rates are adjusted with reference to movements in the median price for strata dwellings in Canterbury Bankstown. The median strata dwelling price is published quarterly in the NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata. The Rent and Sales Report is available on the NSW Government, Family and Community Services website.

This rate is considered financially feasible for development on the basis that a staged implementation approach would be taken. The purpose of staging the requirement over time is to allow the market to adjust. By phasing in the requirement, it can be considered ahead of time in land purchases and development projects.

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

Implications

- 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.
- A staged implementation approach would be taken to allow the market to adjust.

SECTION D—State and Commonwealth interests**10. Is there adequate public infrastructure for the planning proposal?**

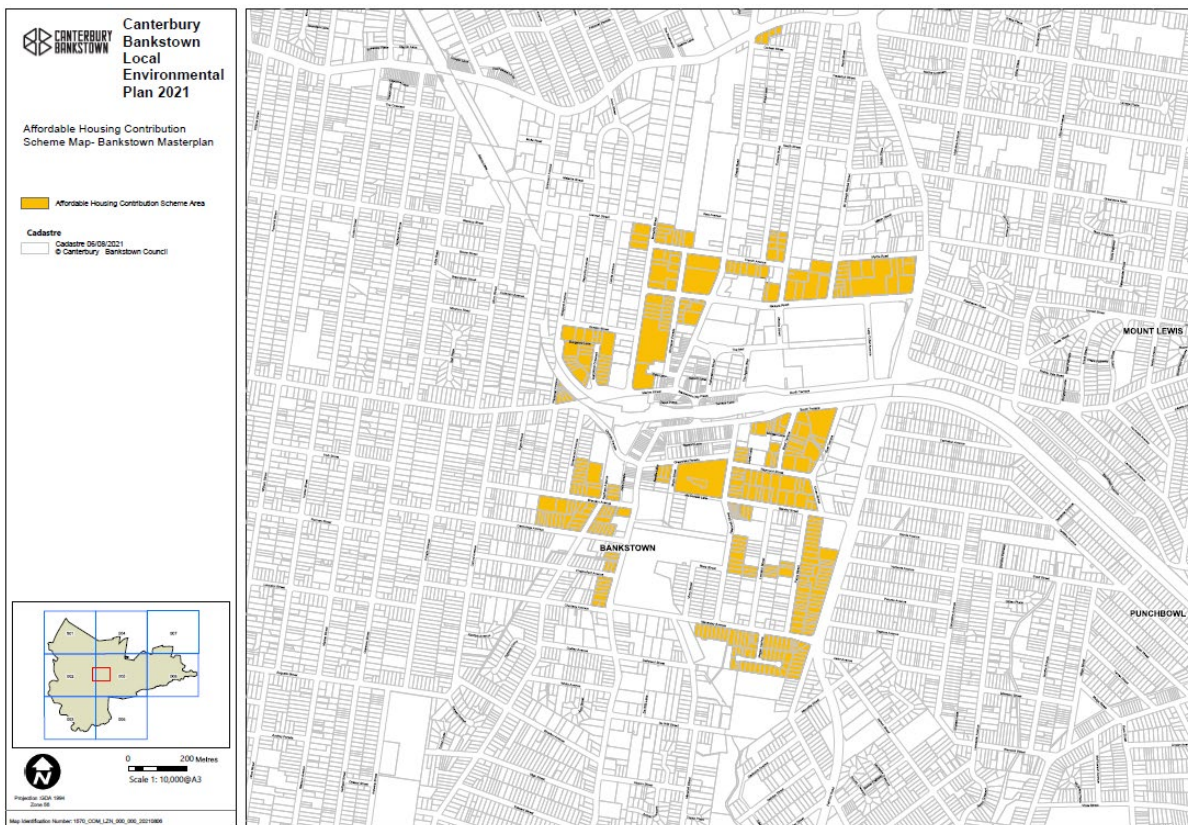
This planning proposal does not result in additional development or further demands on public infrastructure.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

An update to this section of the planning proposal will occur following consultation with the State and Commonwealth public authorities in accordance with the Gateway Determination.

PART 4—MAPS

This planning proposal includes the proposed Affordable Housing Contribution Scheme Map.



Note: Council adopted the Bankstown Master Plan at its Ordinary Meeting of 28 September 2021. This map may be updated following certain site testing as required by the Council resolution of 28 September 2021.

PART 5—COMMUNITY CONSULTATION

The exhibition period for this planning proposal would comprise the following, subject to any restrictions related to the COVID-19 pandemic:

- Notification in the local newspaper that circulates in the area affected by the planning proposal.
- Displays at the Council administration building (Bankstown and Campsie Branches) and corporate website.
- Written notification to affected property owners in the Bankstown Strategic Centre.
- Written notifications to community housing providers operating in the area, and the NSW Land and Housing Corporation.

PART 6–PROJECT TIMELINE

Dates	Project timeline
May 2022	Issue of Gateway Determination
July 2022	Exhibit planning proposal
October 2022	Report to Council following the exhibition
November 2022	Submit planning proposal to the Department of Planning, Industry and Environment to draft and finalise the local environmental plan

ATTACHMENT A–State Environmental Planning Policies

SEPPs (as at October 2021)		Applicable	Consistent
19	Bushland in Urban Areas	Yes	Yes
21	Caravan Parks	Yes	Yes
33	Hazardous & Offensive Development	Yes	Yes
36	Manufactured Home Estates	No	N/A
47	Moore Park Showground	No	N/A
50	Canal Estate Development	Yes	Yes
55	Remediation of Land	Yes	Yes
64	Advertising & Signage	Yes	Yes
65	Design Quality of Residential Apartment Development	Yes	Yes
70	Affordable Housing (Revised Schemes)	Yes	Yes
	(Aboriginal Land) 2019	No	N/A
	(Activation Precincts) 2020	No	N/A
	(Affordable Rental Housing) 2009	Yes	Yes
	(Building Sustainability Index: BASIX) 2004	Yes	Yes
	(Coastal Management) 2018	Yes	Yes
	(Concurrences and Consents) 2018	Yes	Yes
	(Educational Establishments & Child Care Facilities) 2017	Yes	Yes
	(Exempt & Complying Development Codes) 2008	Yes	Yes
	(Gosford City Centre) 2018	No	N/A
	(Housing for Seniors or People with a Disability) 2004	Yes	Yes
	(Infrastructure) 2007	Yes	Yes
	(Koala Habitat Protection) 2021	No	N/A
	(Kosciuszko National Park–Alpine Resorts) 2007	No	N/A
	(Kurnell Peninsula) 1989	No	N/A
	(Major Infrastructure Corridors) 2020	No	N/A
	(Mining, Petroleum Production & Extractive Industries) 2007	Yes	Yes
	(Penrith Lakes Scheme) 1989	No	N/A
	(Primary Production & Rural Development) 2019	Yes	Yes
	(State & Regional Development) 2011	Yes	Yes
	(State Significant Precincts) 2005	Yes	Yes
	(Sydney Drinking Water Catchment) 2011	No	N/A
	(Sydney Region Growth Centres) 2006	No	N/A
	(Three Ports) 2013	No	N/A
	(Urban Renewal) 2010	No	N/A
	(Vegetation in Non–Rural Areas) 2017	Yes	Yes
	(Western Sydney Aerotropolis) 2020	No	N/A
	(Western Sydney Employment Area) 2009	No	N/A
	(Western Sydney Parklands) 2009	No	N/A

Deemed SEPPs (as at October 2021)		Applicable	Consistent
	Greater Metropolitan REP No.2–Georges River Catchment	Yes	Yes
	Sydney REP (Sydney Harbour Catchment) 2005	No	N/A

ATTACHMENT B—Ministerial Directions

Ministerial Directions (as at October 2021)		Applicable	Consistent
1	Employment and Resources		
1.1	Business and Industrial Zones	No	N/A
1.2	Rural Zones	No	N/A
1.3	Mining, Petroleum Production & Extractive Industries	No	N/A
1.4	Oyster Aquaculture	No	N/A
1.5	Rural Lands	No	N/A
2	Environment and Heritage		
2.1	Environment Protection Zones	Yes	Yes
2.2	Coastal Protection	No	N/A
2.3	Heritage Conservation	Yes	Yes
2.4	Recreation Vehicle Areas	Yes	Yes
2.5	Application of E2 and E3 Zones in Far North Coast LEPs	No	N/A
2.6	Remediation of Contaminated Land	Yes	Yes
3	Housing, Infrastructure and Urban Development		
3.1	Residential Zones	Yes	Yes
3.2	Caravan Parks & Manufactured Home Estates	Yes	Yes
3.3	Home Occupations	Yes	Yes
3.4	Integrating Land Use & Transport	Yes	Yes
3.5	Development Near Licensed Aerodromes	Yes	Yes
3.6	Shooting Ranges	No	N/A
3.7	Non-Hostel Short Term Rental Accommodation	No	N/A
4	Hazard and Risk		
4.1	Acid Sulfate Soils	Yes	Yes
4.2	Mine Subsidence & Unstable Land	No	N/A
4.3	Flooding	Yes	Yes
4.4	Planning for Bushfire Protection	No	N/A
5	Regional Planning		
5.1	Implementation of Regional Strategies [Revoked]	No	N/A
5.2	Sydney Drinking Water Catchments	No	N/A
5.3	Farmland on the NSW Far North Coast	No	N/A
5.4	Development along the Pacific Highway, North Coast	No	N/A
5.5	Development in the Cessnock LGA [Revoked]	No	N/A
5.6	Sydney to Canberra Corridor [Revoked]	No	N/A
5.7	Central Coast [Revoked]	No	N/A
5.8	Second Sydney Airport: Badgerys Creek [Revoked]	No	N/A
5.9	North West Rail Link Corridor Strategy	No	N/A
5.10	Implementation of Regional Plans	Yes	Yes
5.11	Development of Aboriginal Land Council Land	No	N/A

6	Local Plan Making		
6.1	Approval & Referral Requirements	Yes	Yes
6.2	Reserving Land for Public Purposes	Yes	Yes
6.3	Site Specific Provisions	Yes	No
7	Metropolitan Planning		
7.1	Implementation of A Plan for Growing Sydney [Revoked]	No	N/A
7.2	Greater Macarthur Land Release Investigation [Revoked]	No	N/A
7.3	Parramatta Road Corridor Urban Transformation Strategy	No	N/A
7.4	Implementation of North West Priority Growth Area Plan	No	N/A
7.5	Implementation of Greater Parramatta Priority Growth Area Plan	No	N/A
7.6	Implementation of Wilton Priority Growth Area Interim Plan	No	N/A
7.7	Implementation of Glenfield to Macarthur Renewal Corridor	No	N/A
7.8	Implementation of Western Sydney Aerotropolis Plan	No	N/A
7.9	Implementation of Bayside West Precincts 2036 Plan	No	N/A
7.10	Implementation of Planning Principles for Cooks Cove Precinct	No	N/A
7.11	Implementation of St Leonards and Crows Nest Plan	No	N/A
7.12	Implementation of Greater Macarthur 2040	No	N/A
7.13	Implementation of the Pyrmont Peninsula Place Strategy	No	N/A

Draft Affordable Housing Contribution Scheme

CONTENTS

Section 1–Strategic Context and Background

Section 2–Affordable Housing Contributions

Section 3–Administration and Implementation

Appendix A–Local Housing Needs Assessment

Appendix B–Viability Assessment

SECTION 1—STRATEGIC CONTEXT AND BACKGROUND

This Affordable Housing Contribution Scheme (this Scheme) sets out how, where and at what rate contributions are collected for affordable housing. This Scheme has been prepared in accordance with the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 70—Affordable Housing (Revised Schemes) and the Department of Planning, Industry and Environment’s *Guideline for Developing an Affordable Housing Contribution Scheme*.

1.1 Objectives of this Scheme

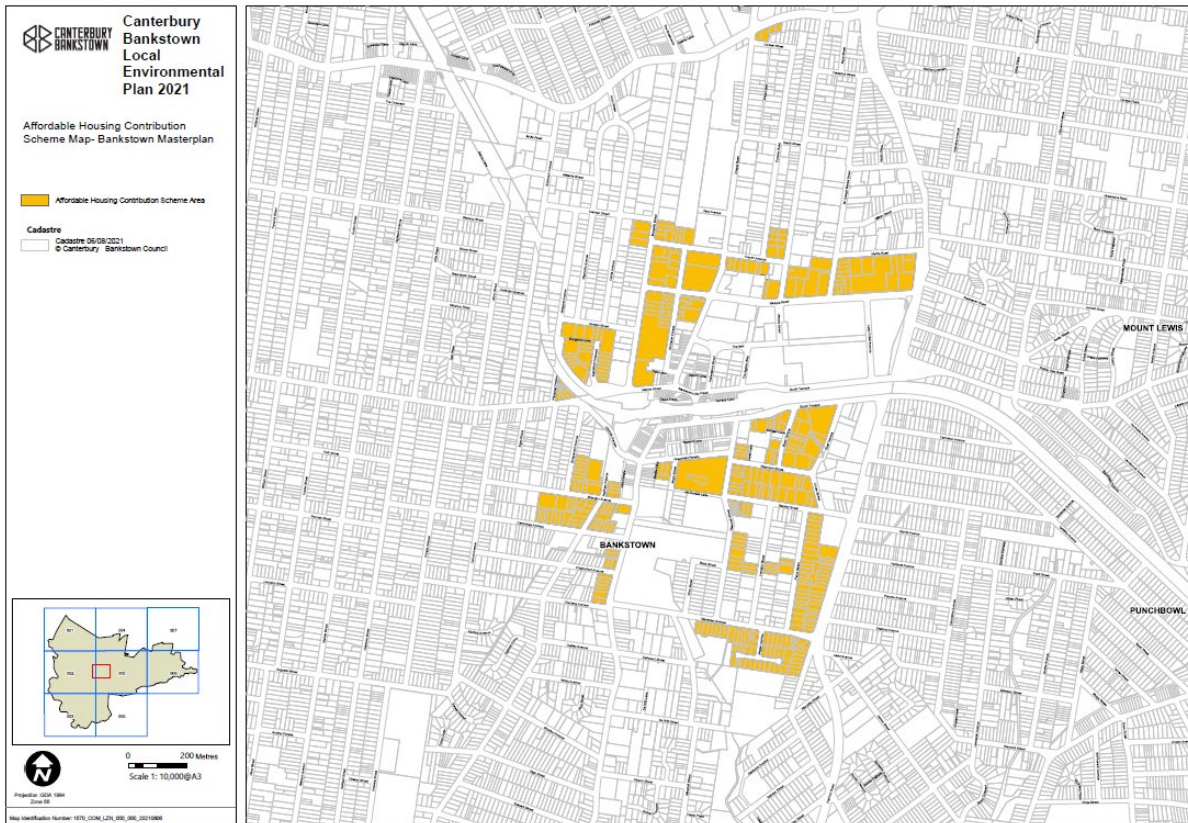
The objectives of this Scheme are:

- To recognise the provision of affordable housing as infrastructure to support sustainable growth.
- To contribute to meeting the needs of very low to moderate income households for affordable housing in Canterbury Bankstown.
- To provide certainty around the requirements for affordable housing in Canterbury Bankstown, including the rate for contributions and how contributions will be collected.
- To ensure that contribution rates for affordable housing are viable and evidence-based.

1.2 Where does this Scheme apply?

This Scheme applies to land shown in Figure 1.

Figure 1: Bankstown Strategic Centre



Note: Council adopted the Bankstown Master Plan at its Ordinary Meeting of 28 September 2021. This map may be updated following certain site testing as required by the Council resolution of 28 September 2021.

1.3 What types of development does this Scheme apply to?

This Scheme applies to development in the Bankstown Strategic Centre that choose to benefit from the affordable housing option under the incentive height and floor space provision, but does not include:

- Affordable housing or social housing that choose the affordable housing option under the incentive height and floor space provision, provided:
 - the affordable housing or social housing is managed by a registered community housing provider, and
 - the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity, and
 - the following covenant is registered in the title of the site prior to the issuance of the Occupation Certificate:

Affordable Housing Covenant

In accordance with section 88E of the Conveyancing Act 1919, the covenant will:

- require affordable housing to be retained as affordable housing in perpetuity;
 - require affordable housing to be managed in accordance with the affordable housing principles;
 - allow at the sole discretion of the Canterbury Bankstown Council for the removal of the covenant to facilitate the sale of affordable housing where the Council is satisfied equivalent or better replacement stock is to be provided within the Canterbury Bankstown Local Government Area; and
 - allow for the lifting of the covenant at the sole discretion of the Canterbury Bankstown Council in the circumstance that the eligible community housing provider becomes insolvent and another eligible community housing provider, or the Canterbury Bankstown Council, is unable or unwilling to take over the interest in the asset.
- Development that provide on site infrastructure or a minimum 50% employment generating gross floor area under the incentive height and floor space provision.

1.4 Overview – Affordable housing need

This section provides an overview of the housing affordability issues that this Scheme aims to address. More detailed analyses of demographics and housing needs are provided at Appendix A.

The Background Report (page 13) to Council's Affordable Housing Strategy identifies the need for more affordable housing in Canterbury Bankstown:

As of 2016, in Canterbury Bankstown there were 15,441 households that were renters experiencing rental stress. This represents 39.1% of renting households in the LGA (compared to 26.4% in Greater Sydney). As of 2016, in Canterbury Bankstown there were 5,707 households that had mortgages and were experiencing mortgage stress. This represents 17.8% of households with a mortgage in the LGA (compared to 10.3% in Greater Sydney). These figures indicate that renters experience housing stress more so than those households with a mortgage.

Existing mechanisms to provide affordable housing under the NSW planning system include:

- Social housing, which is State-owned infrastructure delivered by the Land and Housing Corporation. The issue is social housing is not meeting demand.
- The State Environmental Planning Policy (Affordable Rental Housing) 2009, which encourages development to provide affordable housing by offering bonus floor space. The issue is the availability of the affordable housing supply is limited to 10–15 years.
- Council's Planning Agreements Policy, which allows contributions under planning agreements to be in the form of affordable housing (monetary payment, land or dedication of dwellings). The issue is planning agreements focus on site specific planning proposals, rather than precinct master plans.

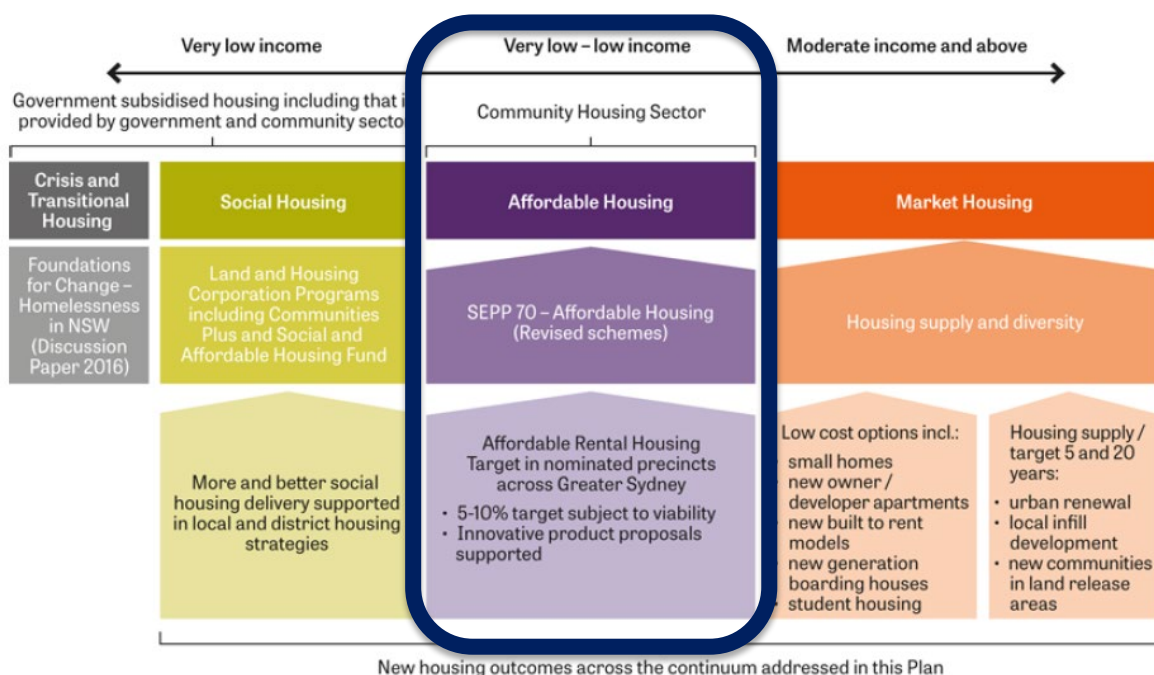
State and local policies conclude that stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households. The State and local policies include:

- NSW Housing Strategy 'Housing 2041' (Department of Planning, Industry and Environment, March 2021)
- Greater Sydney Region Plan (Greater Sydney Commission, March 2018)
- South District Plan (Greater Sydney Commission, March 2018)
- Local Strategic Planning Statement 'Connective City 2036' (Council, March 2020)
- Canterbury Bankstown Housing Strategy (Council, June 2020)
- Canterbury Bankstown Affordable Housing Strategy (Council, June 2020)
- Affordable Housing Strategy–Background Report (Council, February 2020)
- Bankstown Master Plan (Council, March 2021)
- Development Feasibility Analysis (Atlas Urban Economics, February 2021).

The State and local policies recommend that Council prepare this Scheme. The intent of this Scheme is for Council to own affordable housing dwellings that are rented to tenants within the very low to moderate income households. According to the analyses, this Scheme would focus on locations where lower income households are paying over 30% of their income on rent. The priority areas include Bankstown, Campsie, Lakemba, Punchbowl and Wiley Park, where housing stress is most common.

Whilst this Scheme will not resolve the wider issue of housing stress in the Greater Sydney Region, it is an additional mechanism to provide more affordable housing to support very low to moderate income households who are experiencing housing stress as shown in Figure 1.

Figure 1: Housing continuum, initiatives and programs (Greater Sydney Region Plan, page 69)



1.5 Legislative basis for affordable housing contributions

An objective of the Environmental Planning and Assessment Act 1979 (the Act) is to promote the delivery and maintenance of affordable housing. The Act (section 7.32) enables Council to levy contributions for affordable housing.

The State Environmental Planning Policy No. 70—Affordable Housing (Revised Schemes) (SEPP 70) supports the Act by providing the mechanism for Council to develop this Scheme and to levy developer contributions for affordable housing.

To activate the mechanism, the Act requires the SEPP 70 to name Council's local government area. Once this occurs, Council can seek to amend its local environmental plan to reference this Scheme and to levy affordable housing contributions. According to the Act (section 7.32), any condition imposed on a development consent must comply with the requirements of the SEPP 70, be authorised by an LEP and must be in accordance with this Scheme.

In February 2019, the Department of Planning, Industry and Environment amended the SEPP 70 to include all councils across NSW (thus meeting the Act's requirements of a council being named in a SEPP). The amendment removes the administrative step of entering a local government area into the SEPP 70, thereby expediting Council's ability to investigate and develop this Scheme.

1.6 Relationship to other affordable housing provisions in the LGA

At the Ordinary Meeting of 23 June 2020, Council adopted amendments to its Planning Agreements Policy in accordance with its Affordable Housing Strategy. Where a planning proposal is seeking an uplift of residential floor space that exceeds 1,000 square metres of gross floor area, the equivalent of at least 5% of the increased residential floor space may be dedicated to Council in the form of dwellings or as a monetary payment for the purpose of affordable housing. An alternative rate may be negotiated subject to feasibility testing.

This Scheme would apply to centres that are subject to Council's master planning process and where uplift is proposed to occur. In areas of uplift, it would be expected that a portion of the total residential gross floor area would be dedicated to Council for the delivery of affordable housing. In future:

- Council's master planning process will identify centres where the Scheme may apply, subject to viability testing.
- The Planning Agreements Policy will apply to site specific rezoning applications not identified by the Draft Scheme.

1.7 Affordable housing principles

This Scheme will be managed in accordance with the following principles set out in the SEPP 70:

1. Where any of the circumstances described in section 7.32 (1) (a), (b), (c) or (d) of the Act occur, and a State Environmental Planning Policy or Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
2. Affordable housing is to be made available to very low, low or moderate income households, or any combination of these.
3. Affordable housing is to be rented to appropriately qualified tenants and at an appropriate rate of gross household income.
4. Land provided for affordable housing is to be used for the purpose of the provision of affordable housing.
5. Buildings provided for affordable housing are to be managed so as to maintain their continued use for affordable housing.
6. Rental from affordable housing, after deduction of normal landlord's expenses (including management and maintenance costs and all rates and taxes payable in connection with the dwellings), is generally to be used for the purpose of improving or replacing affordable housing or for providing additional affordable housing.
7. Affordable housing is to consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the vicinity.

1.8 Definitions

Affordable housing has the same meaning as in the Environmental Planning and Assessment Act 1979, which means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

Canterbury Bankstown means the Canterbury Bankstown Local Government Area.

Contribution rate means the contribution rate that is used in the calculation of the monetary contribution for a relevant development and is adjusted quarterly to take into account indexation.

Council means the Canterbury Bankstown Council

Gross floor area (GFA) has the same meaning as in the Canterbury Bankstown Local Environmental Plan [Year], which means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

LGA means Local Government Area.

Non-residential development means any development that does not include residential accommodation.

Registered community housing provider means a community housing provider who is registered under the National Regulatory System of Community Housing. In NSW, a community housing provider must be registered by the Registrar of Community Housing to receive assistance from the Department of Family and Community Services or the NSW Land and Housing Corporation.

SEPP 65 means the State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development.

SEPP 70 means the State Environmental Planning Policy No. 70—Affordable Housing (Revised Schemes).

Very low, low and moderate income households have the same meaning as in the State Environmental Planning Policy No. 70—Affordable Housing (Revised Schemes), which means households whose gross incomes fall within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) or the Rest of NSW (Greater Capital City Statistical Area) according to the Australian Bureau of Statistics:

Very low income household	less than 50%
Low income household	50 or more but less than 80%
Moderate income household	80–120%

SECTION 2—AFFORDABLE HOUSING CONTRIBUTIONS

2.1 Contribution rates

Affordable housing contributions are in addition to other contributions including local infrastructure contributions (s7.11 or s7.12) and special infrastructure contributions (Subdivision 4 of the Act).

Affordable housing contributions must meet the following requirements:

- A contribution is to be calculated in accordance with the requirements of this section. There are no savings or credits for floor space that may exist on the site, even if the building is being adapted or reused.
- If an affordable housing dwelling is considered unsuitable, then it must be made as a monetary contribution.
- If the contribution is less than 50 square metres, then it must be made as a monetary contribution.
- A contribution in some instances may comprise a combination of in-kind dedication and monetary contribution.
- A change of use is calculated in the total residential gross floor area for the purpose of calculating an affordable housing contribution.
- In all instances, Council will require evidence that the condition(s) of consent has been satisfied prior to the granting of a Construction Certificate.

The rates of affordable housing contributions required under this Scheme are listed below.

2.1.1 Bankstown Strategic Centre

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

Appendix B includes the viability testing for the Bankstown Strategic Centre. There are three methods by which a contribution requirement may be satisfied:

- dedication of completed dwellings (refer section 2.2);
- making an equivalent monetary contribution (refer section 2.3); or
- dedication of land (refer section 2.4).

The development application should confirm the preferred method of contribution.

2.2 Dedication of dwellings

The affordable housing contribution requirement may be satisfied through the dedication of completed dwellings free of cost, and to the satisfaction of Council. The completed dwellings must be purposed as affordable housing dwellings and meet the following requirements:

- Align with the affordable housing principles in section 1.7 of this Scheme.
- The location, size and quality of the affordable housing dwellings are to be to the satisfaction of Council and its nominated community housing provider and generally consistent with the standard of new housing in Canterbury Bankstown. The dwellings should not be distinguishable from market housing within Canterbury Bankstown. If not to its satisfaction, Council may require the contribution to be satisfied by way of an equivalent monetary contribution.
- Completed dwellings (and land) are dedicated to Council in perpetuity and free of cost. Council or its community housing provider will be responsible for rental arrangements.
- The total gross floor area must not be less than 50 square metres. If the gross floor area is less than 50 square metres, a monetary contribution will instead be payable (as described in section 2.3 of this Scheme).
- If the dedicated dwellings are part of a development requiring consideration of the SEPP 65 (or equivalent), each dwelling must comply with the NSW Apartment Design Guide's solar access and natural ventilation requirements.
- Where only part of a contribution is satisfied through dedication of completed dwellings, any remaining requirement is to be paid as a monetary contribution.

2.2.1 Calculating dedication of dwellings

Example 1—Residential development (residential GFA of 8,000 square metres) approved 24 months after the adoption of this Scheme

Formula: 8,000sqm GFA (residential uses) x 3% affordable housing contribution rate (CR) = required affordable housing square metre provision.

Calculation for Affordable Housing GFA required to be dedicated:
 = 8,000sqm (residential GFA) x 3% (contribution rate)
 = 240sqm

Example 2–Mixed use development (total GFA of 8,000 square metres, comprising residential GFA of 7,000 square metres and non–residential GFA of 1,000 square metres) approved 24 months after the adoption of this Scheme

Formula:

- **Total GFA – non–residential GFA = residential GFA**
- **Residential GFA x 3% = required affordable housing square metre provision**

Calculation for residential GFA: 8,000sqm (Total GFA) – 1,000sqm (non-residential GFA) = 7,000sqm (residential GFA)

Calculation for Affordable Housing GFA required to be dedicated:
 = 7,000sqm (residential GFA) x 3% (contribution rate)
 = 210sqm

Example 3–Change of use (GFA 2,000sqm from non–residential use to residential use) approved 24 months after the adoption of this Scheme

Formula: Affordable Housing contribution provision = Contribution rate x converted residential GFA

Calculation for Affordable Housing GFA required to be dedicated:
 = 2,000sqm (converted residential GFA) x 3% (contribution rate)
 = 60 sqm

2.3 Equivalent monetary contribution

Where a monetary contribution is to be made in lieu of the dedication of completed dwellings on site, an equivalent monetary contribution will be made and indexed quarterly and the contribution rate will be reviewed periodically. The monetary contribution and sample calculations are outlined below.

2.3.1 Bankstown Strategic Centre

The contribution rate (CR) to be used is:

Contribution rate (% RATE)	Contribution rate /sqm GFA (CR) – based on September 2020 NSW FACs Sales and Rent Report
First year of this Scheme: 1%	\$66
Second year of this Scheme: 2%	\$132
Third year of this Scheme and thereafter: 3%	\$198

The monetary contribution amount is reviewed and indexed on a quarterly basis with reference to NSW Family and Community Services Sales and Rent Reports, which are updated and issued quarterly. Refer to indexing in Section 3.2 of this Scheme.

2.3.2 Calculating monetary contributions

Example 1—Residential development (residential GFA of 8,000 square metres) approved 24 months after the adoption of this Scheme

Formula: 8,000 sqm Gross floor area (Residential Uses) x affordable housing monetary contribution rate (CR) = required affordable housing monetary contribution provision.

Calculation for the equivalent monetary contributions to be dedicated:
 = 8,000sqm (residential GFA) x \$198 (monetary contribution rate)
 = \$1,584,000

Example 2—Mixed use development (total GFA of 8,000 square metres, comprising residential GFA of 7,000 square metres and non-residential GFA of 1,000 square metres) approved 24 months after the adoption of this Scheme

Formula:

- Total GFA – non-residential GFA = residential GFA
- Residential GFA x monetary contributions rate = required affordable housing monetary contribution provision

Calculation for residential GFA: 8,000sqm (Total GFA) – 1,000sqm (non-residential GFA) = 7,000sqm (residential GFA)

Calculation for the equivalent monetary contributions to be dedicated:
 = 7,000sqm (residential GFA) x \$198 (contribution rate)
 = \$1,386,000

Example 3—Change of use (GFA 2,000sqm from non-residential use to residential use) approved 24 months after the adoption of this Scheme

Formula: Affordable Housing contribution provision = Contribution rate x converted residential GFA

Calculation for the equivalent monetary contributions to be dedicated:
 = 2,000sqm (converted residential GFA) x \$198 (contribution rate)
 = \$396,000

2.4 Dedication of Land

The acceptability of land for dedication (as an alternative to dedication of dwellings or monetary contribution) is subject to Council's discretion, in consultation with the community housing sector and Council's partner community housing provider.

The following requirements are identified to guide the assessment of suitability:

- The dedicated land must allow the development of the intended affordable housing development in accordance with Council's Local Environmental Plan and Development Control Plan.
- Within a five minute walking catchment (400 metres) of a bus stop or a ten minute walking catchment (800 metres) of a railway station.
- Not to be subject to environmental constraints, such as:
 - Contamination or requiring remediation
 - Flooding or flood constraints.
- Have access, locational and site characteristics comparable to the proposed residential development.

The value of the dedicated land should be equivalent to the monetary contribution calculated under this Scheme. The value of the dedicated land should be determined by an independent valuer considering the following:

- Assess if the land to be dedicated meets Council's requirements.
- If the land is suitable for dedication, identify the proposed land in a subdivision plan to be approved by Council.
- Calculate the equivalent monetary contribution payable.
- Obtain independent valuation of the land to be dedicated.
- If the assessed land value is less than the equivalent monetary contribution payable, subject to acceptability by Council, pay the difference in monetary contribution.

If the assessed land value exceeds the equivalent monetary contribution, no offset or refund is applicable.

A development application must include the following information:

- The quantum and location of the land to be dedicated and any residual amount for which a monetary contribution is required.
- Identify the land proposed for dedication on the subdivision plans.
- Demonstrate the value of the land to be dedicated against the equivalent monetary contribution.
- Demonstrate the appropriateness of the land proposed for dedication with reference to the principles of this Scheme.

2.5 Development that is exempt from this Scheme

The types of development which are exempt from affordable housing contributions are listed below.

Type of development	Reason
Affordable housing or social housing that is managed by a registered community housing provider and the total residential gross floor area is used solely for the purpose of the provision of affordable housing or social housing in perpetuity.	Delivers the intended outcome of this Scheme.
Development that provide on site infrastructure or a minimum 50% employment generating gross floor area under the incentive height and floor space provision.	The Scheme is to apply to development that choose to benefit from the affordable housing option under the incentive height and floor space provision.

2.6 Condition(s) of consent for affordable housing

Council will levy developer contributions for affordable housing via condition(s) of consent. The condition(s) of consent must include the following information:

- (a) The total residential gross floor area of the development that was used to calculate the contribution or the monetary contribution required.
- (b) The different floor areas that can contribute to the total contribution amount (this only applies in instances where rates differ between development types or between commercial and residential floor space).
- (c) The relevant contribution rates.
- (d) The indexation period at the time of determination (for any monetary contributions).
- (e) A requirement to demonstrate that the title of any dwellings will be transferred to Council prior to the granting a Construction Certificate.
- (f) A requirement to make any monetary payment at a specified time or stage in the development application process.
- (g) A requirement that any dwellings that will be dedicated are shown on the approved plans in the same development application and referenced in the affordable housing condition(s).
- (h) The dedicated affordable housing is to be constructed to a standard which in the opinion of Council is consistent with other dwellings in the development.
- (i) If a staged development, affordable housing must be provided at each stage.

SECTION 3—ADMINISTRATION AND IMPLEMENTATION

3.1 How to make a contribution

Development to which this Scheme applies (other than development excluded from this Scheme) is required to provide affordable housing. This requirement will be by way of condition(s) of development consent.

There are three different ways to make the required affordable housing contribution. The first is the dedication of affordable housing dwellings to Council. Secondly where it is not possible or practical for affordable housing to be dedicated, an equivalent monetary contribution can be made. The third and least preferred is the dedication of land and is expected to apply in exceptional situations.

A contribution requirement forms part of a development consent. Council will require evidence that the affordable housing contribution requirement is satisfied prior to granting of any construction certificate or complying development certificate. Where no construction certificate is required, evidence that the affordable housing contribution requirement is satisfied will be required by Council before commencement of use/occupation.

This Scheme also includes a methodology for the dedication of land, however it is expected that this approach would only occur in exceptional circumstances.

3.1.1 Dedicating affordable housing dwellings

Where affordable housing is proposed to be dedicated on site, the applicant must transfer the titles of the dwellings to Council. An agreement to transfer the titles must be made and evidence provided to Council prior to the granting of a Construction Certificate.

Council must be satisfied that the nominated dwellings achieve the affordable housing principles and design details as set out in this Scheme. Where appropriate Council will seek comment from the community housing provider to ensure this.

Council and the community housing provider (as appropriate) will also consider the suitability of the proposed dedication and quantum of dwellings from an operational perspective, that is, the cost implications of management and maintenance.

The affordable housing contribution will be satisfied when the title is transferred to Council prior to issue of an Occupancy Certificate.

3.1.2 Paying a monetary contribution

Where an applicant is to make a monetary contribution towards affordable housing, the amount of the contribution will be specified in the condition(s) of development consent. The contribution must be paid to Council prior to the issue of any Construction Certificate.

Council may consider deferred payment of monetary contributions in special circumstances. An applicant seeking deferral of payment must demonstrate to Council's satisfaction that their circumstances warrant consideration of deferred payment.

Any application for deferral will be considered on its merits. If granted it will be subject to the following conditions:

- The period of time for the deferring payment will be limited to prior to the issuance of the Occupation Certificate.
- The applicant must provide a suitable Bank Guarantee.
- Interest will be charged on deferred contributions. The Bank Guarantee is to be equal to the amount of the monetary contribution to be paid plus the interest accrued over the deferral period.
- The interest rate payable on the deferred contribution is the same as the Commonwealth Bank's base lending rate at the time of the release of the approved building plans or subdivision plan.
- A Bank Guarantee must not impose an expiry date or any other condition that may prejudice Council's ability to call on the Guarantee if required.
- An administrative fee will be charged for deferred payment. Refer to Council's Fees and Charges for the current fee.
- Should the contributions not be paid within 7 days from the end of the deferral period, the Council reserves the rights to call up the Banks Guarantee without further notice.

3.1.3 Dedicating land

Where land is proposed to be dedicated as a contribution, Council will ensure the proposed land satisfies Council's requirements and refer the application to a preferred community housing provider for comment.

Council will undertake an assessment of the appropriateness of land proposed for dedication with reference to the affordable housing principles and comment received from the preferred community housing provider.

3.2 Indexing of payments

Contribution rates will be adjusted quarterly within one week of the first of March, June, September and December, to ensure that the contributions reflect the costs associated with the provision of affordable housing over time. Rates will be adjusted with reference to movement in the median price for strata dwellings in Canterbury Bankstown. All monetary contributions must be indexed at the time of payment to ensure funds received will cover the full costs of delivering the required affordable housing contributions.

The median strata price is published quarterly in the NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata.

The formula for the adjustment is:

Next Quarter's Contribution Rate = Current Contribution Rate x (MDP2/MDP1)

Where:

MDP1 is the median strata dwelling price for the PREVIOUS quarter

MDP2 is the median strata dwelling price for the CURRENT quarter

The current contribution rates will be displayed on Council's website.

3.3 Refund policy

Council's policy is that there are no refunds of monetary contributions made under this Scheme. Council may however consider giving a refund in the case of a surrendered development consent or complying development certificate provided that:

- (a) the development application or complying development certificate had not lapsed; and
- (b) the surrendered development consent and complying development certificate takes effect in accordance with the Environmental Planning and Assessment Act 1979; and
- (c) no demolition, building, engineering or construction work has physically commenced that results in gross floor area on the site; and
- (d) Council is to retain 10% of the monetary contribution payment where any works have commenced.

3.4 Processes for the distribution and management of funds

Contributions will be pooled and managed by Council to develop, purchase and manage affordable housing. Any financial return resulting from the management of funds in waiting is to be used for the purpose of developing affordable housing in accordance with this Scheme.

Rental income received from affordable housing stock will be managed in accordance with the terms outlined in Council's Affordable Housing Management Procedures. This will ensure returns are re-invested in affordable housing stock in the form of property maintenance, renewal and replacement.

3.5 Registered community housing providers and delivery program

Affordable housing sites acquired or achieved under this Scheme or by any other means, are to be transferred in property title to Canterbury Bankstown.

Council will outsource the management of the affordable housing contributions and dwellings to a housing manager with demonstrated experience and expertise in the management of affordable housing.

Selection of the housing manager to manage the dwellings will be conducted in accordance with Council's Affordable Housing Management Procedures. Council will enter into a management agreement for the affordable housing dwellings with the successful housing manager following the selection process.

Council will provide a delivery program that outlines how funds raised or dwellings provided under this Scheme will be used and requirements for reporting and transparency.

3.6 Monitoring and review of this Scheme

This Scheme will be reviewed on an annual basis. Key considerations will include:

- A review of evidence relating to this Scheme where monitoring identifies issues or considerable change in market conditions
- Number of delivered affordable housing dwellings
- Total amount of funds in waiting
- Allocation of funding within that year
- Size, type, quality and locational appropriateness of dwellings
- Maintenance and management issues
- Retention and use of affordable housing revenue by Council
- Social capital objectives – community building and connectedness
- Access to and use of support services by tenants
- Performance of the Housing Manager in accordance with the Management Agreement
- Internal management issues for Council
- An affordable housing covenant is registered on the title of the land
- Affordable housing dwellings are rented to very low, low and moderate income households at a per cent of gross household income or at a discount-to-market rent

- All rent received after deduction of management and maintenance costs will be used only for the purpose of improving, replacing, maintaining or providing additional affordable housing.
- Affordable housing dwellings are designed and constructed to a standard which, in the opinion of Council, is generally consistent with other dwellings in Canterbury Bankstown, that is they are not differentiated as affordable housing compared with the design of other housing.

APPENDIX A—LOCAL HOUSING NEEDS ASSESSMENT

An overview of the affordable housing issues is provided in this Scheme, as shown in section 1.4. This appendix provides more detail and the supporting data and analysis.

Summary

Section A1—Housing stress and the need for more affordable housing

- Households are increasingly experiencing housing stress, particularly rental households.
- Prioritise affordable housing in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl, where housing stress is most common.

Section A2—Existing mechanisms to provide affordable housing

- Social housing is not meeting demand.
- The availability of the affordable housing supply under the Affordable Rental Housing SEPP is limited to 10–15 years.
- Planning agreements focus on site specific planning proposals, rather than precinct master plans.
- Stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households with a focus on locations where lower income households are paying over 30% of their income on rent.

A1. Housing stress and the need for more affordable housing

With a 2019 population of around 380,000, Canterbury Bankstown is the most populous local government area within the Greater Sydney Region. The population is forecast to grow to 500,000 by 2036.

According to demographic trends, more people are renting. The share of households renting has risen by approximately 4% since 2006, becoming the most prevalent tenure type in Canterbury Bankstown, with outright and mortgage base ownership not far behind. Most households in Canterbury Bankstown pay \$450–\$549 in rent, and most household earnings range from \$400–\$1,249 per week (equivalised).

Figure 6: Tenure type totals and growth rates in Canterbury Bankstown (2006–2016)

Year	Owned outright	Owned with a mortgage	Being purchased under a rent/buy scheme	Rented	Being occupied rent-free	Being occupied under a life tenure scheme	Other tenure type
2016	32,638	31,908	121	38,521	985	295	446
2011	33,712	31,827	380	32,784	801	231	483
2006	34,717	27,825	345	31,528	755	208	360
Growth (Total)	-2,079	4,083	-224	6,993	230	87	86
Growth (CAGR %)	-3.04%	7.09%	-40.78%	10.54%	14.22%	19.09%	11.31%

Source: ABS Census 2006, 2011 and 2016 (TableBuilder Pro)

The Background Report found 17.8% of households were experiencing mortgage stress and 39.1% were experiencing rental stress.

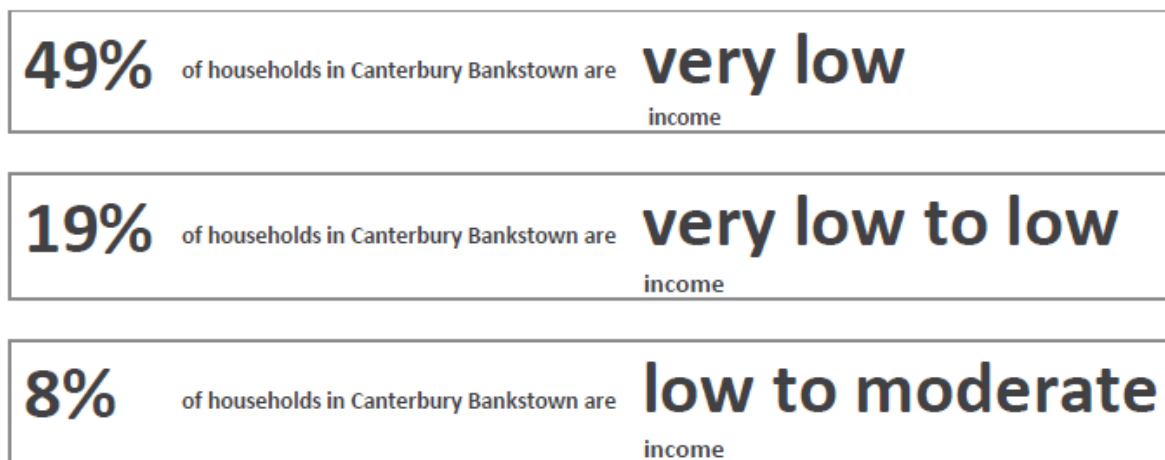
The Background Report reads (page 13):

In the Canterbury Bankstown LGA, the overall proportion of households experiencing housing stress (either rental or mortgage stress) at the 2016 Census was higher than the average for Greater Sydney (11.8%), with 18.6 per cent of households earning in the lowest 40 per cent paying rent or housing repayments greater than 30 per cent of their household income. As of 2016, in Canterbury Bankstown there were 15,441 households that were renters experiencing rental stress. This represents 39.1% of renting households in the LGA (compared to 26.4% in Greater Sydney). As of 2016, in Canterbury Bankstown there were 5,707 households that had mortgages and were experiencing mortgage stress. This represents 17.8% of households with a mortgage in the LGA (compared to 10.3% in Greater Sydney).



Almost 22,000 households experience housing stress in Canterbury Bankstown, or 18.6% compared to 11.8% in Greater Sydney. Households on moderate, low or very low incomes and key workers, who spend more than 30 per cent of their income on housing are impacted in their ability to pay for essential items like food, clothing, transport and utilities and are said to be experiencing housing stress. Affordable housing is targeted specifically to these groups to assist these households to remain in the private housing market.

Figure 7: Household income in Canterbury Bankstown (Background Report, page 18)



As shown in Figure 8, the top suburbs by number of households experiencing rental and mortgage stress are Bankstown, Campsie and Lakemba.

Figure 8: Top ten suburbs – households experiencing housing stress (Background Report, page 15)

Area	Number of households in stress	Total number of households	Percentage of households in stress
Campsie - Clemton Park	2,136	8,858	24.1
Bankstown CBD	1,989	6,714	29.6
Lakemba	1,640	5,195	31.6
Greenacre - Mount Lewis - Chullora	1,441	6,946	20.8
Punchbowl	1,413	5,914	23.9
Yagoona	1,197	5,513	21.7
Wiley Park	949	3,335	28.5
Belmore	859	4,550	18.9
Chester Hill	783	3,761	20.8
Riverwood	703	2,627	26.8
Revesby - Revesby Heights	685	5,358	12.8

The Background Report to the Affordable Housing Strategy reads (page 27):

A greater proportion of households in Canterbury Bankstown experience housing stress than in Greater Sydney, and this proportion has grown in the past decade. The Sydenham to Bankstown corridor is home to one of the largest concentrations of lower income renters in Sydney and has a relatively younger population compared to the rest of Canterbury Bankstown. Planning intervention is required to secure the economic and social benefits that affordable housing offers existing and future residents and workers in growing mixed use centres.

Implications

- Households are increasingly experiencing housing stress, particularly rental households.
- Prioritise affordable housing in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl, where housing stress is most common.

A2. Existing mechanisms to provide affordable housing

A2.1 Definition

Affordable housing is where households who are considered to have very low, low or moderate incomes are paying less than 30% of their gross income on rent or mortgage repayments. This ratio is considered generally sufficient to meet other basic living costs such as food, clothing, transport, medical care and education.

The SEPP 70 defines affordable housing as:

For the purposes of the definition of affordable housing in section 1.4 (1) of the Act, very low income households, low income households and moderate income households are those whose gross incomes fall within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) or the Rest of NSW (Greater Capital City Statistical Area) according to the Australian Bureau of Statistics:

<i>Very low income household</i>	<i>less than 50%</i>
<i>Low income household</i>	<i>50 or more but less than 80%</i>
<i>Moderate income household</i>	<i>80–120%</i>

A2.2 Social housing

As of 30 June 2018, there were 11,437 social housing residential dwellings in Canterbury Bankstown. Public housing accounted for 77% of these dwellings and community housing accounted for 22%.

According to the NSW Department of Communities and Justice's guide to expected waiting times for social housing at 30 June 2020, the waiting time for a one bedroom dwelling is 5–10 years and the waiting time for all other dwellings is 10+ years. There are over 2,800 applicants on the waitlist for social housing. The issue is social housing is not meeting demand.

Figure 9: Existing supply of affordable housing in Canterbury Bankstown

	Public Housing		Aboriginal Housing Office		Community Housing		Indigenous Community Housing		Total
	No.	%	No.	%	No.	%	No.	%	
Burwood	368	82.9	5	1.1	70	15.8	1	0.2	444
Canada Bay	783	78.9	6	0.6	203	20.5	0	0.0	992
Canterbury-Bankstown	8,841	77.1	106	0.9	2,510	21.9	16	0.1	11,473
Inner West	2,034	57.5	130	3.7	1,327	37.5	44	1.2	3,535
Strathfield	537	80.9	3	0.5	124	18.7	0	0.0	664
Sydney	4,769	88.8	46	0.9	549	10.2	7	0.1	5,370
Sydney district	17,332	77.1	296	1.3	4,783	21.3	68	0.3	22,478
NSW	111,341	73.4	4,603	3.0	30,757	20.3	4,971	5.3	151,672

Source: FACS Administrative Data, unpublished.

A2.3 State Environmental Planning Policy (Affordable Rental Housing) 2009

The State Environmental Planning Policy (Affordable Rental Housing) 2009 encourages development to provide affordable housing by offering bonus floor space.

In relation to the existing supply of affordable housing, *accurate data has been difficult to obtain as there are a number of housing providers managing affordable housing across the city* (Housing Strategy, page 78).

The issue is the availability of the affordable housing supply is limited to 10–15 years.

A2.4 Council's Planning Agreements Policy

At the Ordinary Meeting of 23 June 2020, Council adopted amendments to the Planning Agreements Policy in accordance with the Affordable Housing Strategy. Where a planning proposal is seeking an uplift of residential floor space that exceeds 1,000m² of gross floor area, the equivalent of at least 5% of the increased residential floor space may be dedicated to Council in the form of dwellings or as a monetary payment for the purpose of affordable housing. An alternative rate may be negotiated subject to feasibility testing (page 14). To date, there are no planning agreements for affordable housing.

The issue is the process to negotiate with landowners focuses on site specific planning proposals, rather than precinct master plans which involve multiple landowners over a wide area.

A2.5 Rationale for more affordable housing in Canterbury Bankstown

The Background Report reads (page 27):

The data above provides evidence that not enough affordable housing is provided through the market. Less than one percent of the rental market for two-bedroom apartments is considered affordable for a very low-income household. People on very low incomes are priced out of almost the entire rental market, and usually enter housing stress, receive rental assistance or live in social housing to meet basic housing needs. In Canterbury Bankstown, 49% of households are considered to have a very low-income (less than 50% of Greater Sydney median income), which indicates that Canterbury Bankstown is significantly vulnerable to rising housing costs in the context of Greater Sydney.

In 2016, 72% of two-bedroom houses in Canterbury Bankstown were affordable for renters on a low-income. There is a scarcity of social housing in the LGA and the expected wait time for social housing is over ten years. Very low- and low-income households are also likely to be excluded from affordable purchases in Canterbury Bankstown LGA in the future, given increasing housing costs and only a small pipeline of social dwellings. Moderate-income households have more options for rent, although this represents between 3 and 8 percent of the population. One hundred percent of the rental market for two-bedroom houses is affordable for medium income households and 91% of the market of three-bedroom houses are affordable for moderate income households.

As per the Draft Canterbury Bankstown Housing Strategy, the City will deliver 50,000 homes by 2036. The LSPS aims for 80% of this growth to be directed to activity centres, where there is a greater proportion of renters experiencing housing stress. Increasing the stock of studio, one and two-bedroom dwellings in the LGA is likely to provide dwellings at a more affordable price point for rent and purchase, however historically these are still unaffordable for very low and low income renters (a growing demographic). Further increases to housing costs, disproportionate to income growth, is likely to maintain or increase levels of housing stress in the LGA.

The implication is stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households.

Implications

- Social housing is not meeting demand.
- The availability of the affordable housing supply under the Affordable Rental Housing SEPP is limited to 10–15 years.
- Planning agreements focus on site specific planning proposals, rather than precinct master plans.
- Stronger intervention is required to achieve affordability for the relevant target groups of very low to moderate income households with a focus on locations where lower income households are paying over 30% of their income on rent.

APPENDIX B—VIABILITY ASSESSMENT

Summary

Section B1—Preliminary economic advice to support the Scheme

- Prioritise more affordable housing in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl, where housing stress is most common.
- Formulate affordable housing contributions rates concurrent with determining built form planning controls as part of the master planning process to be undertaken for centres.

Section B2—Viability testing to support the Scheme in Bankstown

- 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.
- A staged implementation approach would be taken to allow the market to adjust.

B1. Preliminary economic advice to support the Scheme

To understand the economic impacts of the proposed affordable housing contributions, Council commissioned Hill PDA to provide independent economic advice, which informed the Background Report to the Affordable Housing Strategy. The key findings are (page 74):

- *The contribution rates may not be viable in all scenarios due to factors such as land purchase price, construction cost escalation and market absorption of the end products. It is likely that larger projects seeking higher uplifts have a greater capacity of absorbing an affordable housing contribution levy.*
- *Our results revealed that areas with a strong residential market such as Bankstown and Canterbury show that development is not adversely affected if an affordable housing contribution provision is introduced. However, secondary markets such as Chester Hill show a sensitivity towards the affordable housing levy. We would recommend either a lower affordable housing contribution or permit a site by site open-book assessment in areas considered to be secondary residential locations.*
- *Our sensitivity analysis showed that as the residential unit market recovers to previous peak values, more favourable development margins are achievable, increasing a project's possibility of absorbing the contribution rate levy in the developer margin.*
- *To ensure a wide acceptance to the concept of affordable housing, we would recommend the following:*
 - *Adequate transition period to ensure current DAs are not affected*

- *Early communication to the industry to ensure the cost of providing affordable housing are priced into development site acquisition. This is to avoid unrealistic owner expectations.*

The key recommendations are (page 75):

- *Affordable housing should be focused on key areas to support a strong employment base and social cohesion.*
 - *Affordable housing could be prioritised in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl where housing stress is most common.*
 - *Affordable housing should be directed towards very low and low income households.*
 - *Key worker housing should be prioritised in Bankstown and Campsie.*
- *Council-led planning intervention that generates affordable housing stock is required in Canterbury Bankstown to address social and economic inequality. This can include:*
 - *Leveraging affordable housing during voluntary planning agreements.*
 - *Implementing an affordable housing contribution scheme to acquire new dwellings in value capture scenarios.*
- *Based on these findings it is appropriate to formulate affordable housing contributions rates concurrent with determining built form planning controls as part of the master planning process to be undertaken for centres.*

Implications

- Prioritise affordable housing in the centres of Bankstown, Campsie, Wiley Park, Lakemba and Punchbowl, where housing stress is most common.
- Formulate affordable housing contributions rates concurrent with determining built form planning controls as part of the master planning process to be undertaken for centres.

B2. Viability testing to support the Scheme in Bankstown

To understand the economic impacts of the proposed affordable housing contributions in the Bankstown Strategic Centre, Council sought independent economic advice to undertake viability testing in these strategic centres. Council commissioned Atlas Urban Economics to undertake the viability testing, which informed the Master Plan.

The viability testing suggests that development would not be able to achieve the aspirational affordable rental housing target of 15% set by *Connective City 2036* or the 5–10% range set by the Greater Sydney Commission at this time. Viability testing recommends that 3% of the total residential gross floor area of development can be dedicated to Council, or paid as a monetary contribution at \$198 per square metre*.

* Note: Contribution rates will be adjusted on a quarterly basis, being the first days of March, June, September and December, to ensure that the contributions reflect the cost associated with the provision of affordable housing. Rates are adjusted with reference to movements in the median price for strata dwellings in Canterbury Bankstown. The median strata dwelling price is published quarterly in the NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata. The Rent and Sales Report is available on the NSW Government, Family and Community Services website.

This rate is considered financially feasible for development on the basis that a staged implementation approach would be taken. The purpose of staging the requirement over time is to allow the market to adjust. By phasing in the requirement, it can be considered ahead of time in land purchases and development projects.

Date of determination of development application	Percentage of the total residential gross floor area
Within 12 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	1%
After 12 months but before 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	2%
On or after 24 months of the Bankstown Strategic Centre's LEP Amendments being published on the NSW legislation website	3%

Implications

- 3% of the total residential gross floor area of development can be feasibly dedicated to Council, or paid as a monetary contribution at \$198 per square metre subject to adjustments on a quarterly basis.
- A staged implementation approach would be taken to allow the market to adjust.

-END-

Canterbury Bankstown Local Planning Panel - 11 October 2021

ITEM 2	DA-582/2020 - 197-201 Rodd Street, Sefton
	Demolition of existing structures and construction of a two-storey, 115 bed residential care facility with basement parking and service activities with associated landscaping and site works.
FILE	DA-582/2020 – Bass Hill Ward
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	21 July 2020
APPLICANT	CareSpace Properties Pty Ltd
OWNERS	Dona Betts, Roy Betts, Lynda Rankin
ESTIMATED VALUE	\$24,965,193.00
AUTHOR	City Development

REPORT

This matter is reported to the Local Planning Panel for determination (per the Minister for Planning Direction – 23 February 2018) as the development is subject of 10 unique submissions by way of objection and is therefore considered a ‘contentious development’.

Development Application No. DA-582/2020 proposes the demolition of existing structures and construction of a two-storey, 115-bed residential care facility with basement parking and service activities with associated landscaping and site works.

The Development Application has been assessed in accordance with the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring amongst other things, an assessment against State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural areas) 2017, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, Bankstown Local Environmental Plan 2015, Draft Canterbury Bankstown Local Environmental Plan 2020 and the Bankstown Development Control Plan 2015.

The application was advertised and neighbour notified for a period of twenty-one (21) days, from 5 August 2020 to 25 August 2020. Ten (10) submission were received within this period of which raised similar concerns to the overall size and built form of the development, car parking and traffic generation, reduced access to sunlight, removal of trees and the potential for noise and construction impacts. The submissions have been considered under in the report under Section 4.15(1)(d) of the Environmental Planning and Assessment Act, 1979.

The report also identifies and discusses the developments applied rate of landscaping with review of the Clause 48 of Part 7 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors).

Despite the submissions and the review of the landscaped areas, it is considered that the development provides an appropriate outcome in the context of the surrounding locality and has been recommended for approval, subject to the conditions attached.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

The proposed matter being reported 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-582/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The consolidated development site comprises three properties known as 197, 199 and 201 Rodd Street, Sefton. The development site forms a regular shaped allotment that is zoned R2 Low Density Residential and has a primary frontage to the northern boundary of 53.665m, an allotment depth of 101m and a total site area of 5428.3m². The site has a fall of approximately 4.5m from the northwest corner (37m AHD) to southeast corner (32.5m AHD).

There is a single storey dwelling house and detached outbuilding located on each of the properties that comprise the development site. The existing vegetation generally comprises of planted gardens and smaller trees mid-block and towards the front of each dwelling, a cluster of eucalyptus trees located at the rear and three (3) street trees on Council's nature strip along Rodd Street.

The surrounding development consists of:

- To the north (and opposite the site) is Sefton Infants School which is a single storey public school. It is noted a raised pedestrian crossing is located in front of 201 Rodd Street which connects to the footpath in front of the school.
- To the east is a complex of single storey villas that are built along the length of the property at 193 -195 Rodd Street, Sefton. The units have private open space facing west or oriented towards the development site. Further east is a single storey villa development and older 1950s style detached dwellings which are predominantly single storey with the occasional two storey building.
- To the west is Alder Park which is an open park area zoned RE1 Public Recreation that contains trees, including clusters of eucalyptus trees, playground facilities and seating areas. It has a pathway that connects to Batt Street (to the south) along which bus stops can be accessed.
- To the south is a single storey villa development fronting Batt Street.



Figure 1: Aerial image of the consolidated site in the surrounding local area in red. **Source:** NearMaps 2021 – Image captured, 7 August 2021.



Figure 2: Aerial image (close up) of the consolidated site in red. **Source:** NearMaps 2021 – Image captured, 7 August 2021.



Figure 3: Zoning Map – BLEP 2015.

PROPOSED DEVELOPMENT

The development application proposes the construction of a 2-storey, 115-bed residential care facility with basement parking and service activities with associated landscaping and site works.

In summary, the proposed development comprises:

- Demolition of the existing structures on 197, 199 and 201 Rodd Street in Sefton and the removal of 14 trees including a street tree.
- Site excavation to form a basement to provide 29 car parking spaces, 1x ambulance bay and service activities for the residential care facility. The vehicular access is located to the sites north-eastern corner.
- Construction of a 2 storey residential care facility located above the basement containing 115 beds with a split level and single storey component at the rear of the site.
- Landscaped areas including large bushland gardens and courtyard areas



Figure 4: Front Streetscape (Rodd Street).

SECTION 4.15 ASSESSMENT

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

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 and development control plans are relevant:

- *State Environmental Planning Policy No 55 – Remediation of Land*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *Bankstown Local Environmental Plan 2015*
- *Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020*
- *Bankstown Development Control Plan 2015*

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

State Environmental Planning Policy 55 – Remediation of Land

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) requires the consent authority to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

A preliminary site investigation (PSI) report was submitted for the properties, where it was recognised that the sites were used for ongoing residential purposes with evidence of market gardening activities and previous small scale automotive maintenance.

Based on the PSI, Council officers requested a detailed site investigation (DSI) and the recommended Remedial Action Plan (RAP) to be undertaken as part of the development assessment process. On receipt and review of the DSI and RAP, Council's Environmental Health Unit were satisfied that the site is suitable for the proposed ongoing residential use subject to report recommendations and conditions imposed in a development consent.

It is considered that the consent authority can be satisfied that the development site is suitable for the proposed development, in accordance with Clause 7 of SEPP 55.

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

The proposed development seeks approval for the removal of thirteen (13) trees on the development site, and one (1) street tree (a Weeping bottlebrush) to accommodate a new vehicle crossing.

An arboricultural impact assessment report and a flora and fauna assessment accompanied the development.

This included a review of 37 trees including:

- 25 trees on the site;
- 3 street trees;
- 9 individual trees and clusters of trees in Alder Park

Council's Tree Management Officers and Urban Planning and Policy Team have reviewed the reports, inspected the properties and raised no objection to the removal of the 14 trees, subject to the tree protection measures and replacement plantings.

Conditions have been provided to include in a development consent for twenty five (25) trees to be replanted including additional trees from the Cooks River/Castlereagh Ironbark Forest community.

It is considered that the proposal meets the requirements of Clause 7, 9 and 10 of the SEPP.

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors) aims to increase the supply and diversity of accommodation for seniors or people with a disability in NSW.

An assessment of the residential care facility with the relevant provisions of SEPP Seniors are provided in the table below:

Assessment against relevant provisions of SEPP Seniors		
Provision	Proposal	Complies
<p>4. Land to which Policy applies</p> <p>This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if—</p> <p>(a) development for the purpose of any of the following is permitted on the land—</p> <p>(i) dwelling-houses,</p> <p>(ii) residential flat buildings,</p> <p>(iii) hospitals,</p> <p>(iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or</p> <p>(b) the land is being used for the purposes of an existing registered club.</p>	<p>The land is zoned R2 Low Density Residential under Bankstown LEP 2015 which is <i>'land zoned primarily for urban purposes'</i>.</p> <p>Development for the purposes of a dwelling house is permissible. The SEPP therefore applies to the land.</p>	Yes.
<p>4(6) Land to which Policy does not apply.</p> <p>This Policy does not apply to—</p> <p>(a) land described in Schedule 1 (Environmentally sensitive land), or</p> <p>(b) land (other than land to which Warringah Local Environmental Plan 2000 applies) that is zoned for industrial purposes, or</p> <p>(c) (Repealed)</p> <p>(d) the land to which Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989) applies, or</p> <p>(e) the land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies.</p>	<p>One of the categories of "environmentally sensitive land" under Schedule 1 is land described as "conservation" in the SEPP or another environmental planning instrument. Part of the site is mapped as "Terrestrial Biodiversity" under BLEP 2015 which uses the term 'conservation' in the objective to clause 6.4 - Biodiversity.</p> <p>In review of clause 6.4 of the BLEP 2015 and the biodiversity map which do not categorise the land as <i>"environmentally sensitive land"</i>, the BLEP 2015 does not operate to exclude the operation of SEPP Seniors from this land.</p>	Yes.

<p>10. Seniors housing</p> <p><i>Seniors housing</i> is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:</p> <ul style="list-style-type: none"> (a) a residential care facility, or (b) a hostel, or (c) a group of self-contained dwellings, or (d) a combination of these, but does not include a hospital. 	<p>The development comprises a residential care facility and satisfies the definition of seniors housing.</p>	<p>Yes.</p>
<p>11. Residential care facilities</p> <p><i>Residential care facility</i> is residential accommodation for seniors or people with a disability that includes:</p> <ul style="list-style-type: none"> (a) meals and cleaning services, and (b) personal care or nursing care, or both, and (c) appropriate staffing, furniture, furnishings and equipment for that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility. 	<p>The residential accommodation satisfies the definition of a residential care facility.</p>	<p>Yes.</p>
<p>26. Location and access to facilities</p> <ul style="list-style-type: none"> 1) Access to be available to shops, bank service providers and other retail and commercial services, community services and recreation facilities, and the practice of a general medical practitioner. 2) Access complies with this clause if— <ul style="list-style-type: none"> (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable. (b) a public transport service that: <ul style="list-style-type: none"> i. is located within 400 metres that is accessible by means of a suitable access pathway, and 	<p>A bus stop serviced by Route S2 is located in Batt Street which is accessed via a footpath in Allder Park. The bus stop is 220m from the site and the path meets the gradient requirements of clause 26.</p> <p>The bus stops provide access to the services and facilities described in Clause 26.</p>	<p>Yes.</p>

<p>ii. will take residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to above, and</p> <p>iii. is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services and from the public transport services to the facilities and services complies with the above standards.</p>		
<p>28. Water and Sewer</p> <p>Consent not to be granted unless satisfactory evidence provided of access to reticulated water system and adequate removal or disposal of sewage.</p>	<p>The properties are serviced with water and sewer infrastructure.</p>	<p>Yes.</p>
<p>30. Site Analysis</p> <p>To describe pertinent site details inclusive of dimensions, topography, services, existing vegetation, micro climates, location buildings and structures, views, overshadowing by neighbouring structures</p>	<p>A Statement of Environmental Effects has accompanied the development application in addition to a site analysis plan that was included in the architectural suite of plans.</p>	<p>Yes.</p>
<p>32 to 39 Design Principles</p> <p>Design to consider:</p> <ul style="list-style-type: none"> • Neighbourhood Amenity and Streetscape • Visual and Acoustic Privacy • Solar Access and Design for Climate • Stormwater • Crime Prevention • Accessibility • Waste Management 	<p>The development is considered to be consistent with the design principles of SEPP Seniors.</p> <p>Adequate information has accompanied the development application and have been appropriately reviewed by various Council Units.</p>	<p>Yes.</p>

	This included, among other things, streetscape illustrations, an arboricultural impact assessment report, fauna and flora study, an acoustic report, overshadowing and solar analysis, stormwater hydraulic plans, Council stormwater systems report, plan of management, accessibility and building report and a waste management plan.	
40. Development Standards		
(2) Site Size: Min. 1,000m ²	The site has an area (per survey) of 5428.3m ² .	Yes.
(3) Site Frontage: Min. 20m	The site has a frontage of 53.665m.	Yes.
(4) Height - If the development is proposed in a residential zone where residential flat buildings are not permitted:	Residential flat buildings are not permitted in the R2 Low Density Residential zone which applies to the land.	
(a) the height of all buildings in the proposed development must be 8 metres or less,	The development does not exceed the 8m building height development standard.	Yes.
(b) Storeys: 2 storeys adjacent to boundaries.	1 to 2 storeys proposed.	Yes.
(c) Storeys: 1 storey in rear 25% area of site.	The rear 25% of the site contains a single (1) storey built form.	Yes.
44. Availability of facilities and services		
Any facility or service provided as part of proposed development to be available to residents when the housing is ready for occupation. For staged development, facilities or services may be provided proportionately according to the number of residents in each stage.	All facilities and services required for the future accommodation will be in place upon occupation of the facility. The development is not a staged development.	Yes.
48 Standards that cannot be used to refuse consent for residential care facilities		
(a) Building Height: 8m or less (distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point).	The proposal does not exceed the 8m building height control.	Yes.

(b) Density and Scale: FSR 1:1 or less.	A gross floor area (GFA) of 5221m ² is proposed resulting in a floor space ratio (FSR) of 0.96:1	Yes.
(c) Landscaped Area: 25m ² per bed.	115 beds are proposed, requiring a landscaped area of 2875m ² . An area of 1884.7m ² is provided (16.4m ² per bed).	<u>No.</u> <u>See</u> <u>discussion</u> <u>below the</u> <u>table.</u>
(d) Parking for residents and visitors. Parking requirements: <ul style="list-style-type: none"> • 1 parking space per 10 beds. • 1 parking space per 15 beds (for persons with dementia). • 1 parking space per 2 employees. • 1 ambulance loading zone. Total required: 29 car parking spaces and an ambulance loading zone.	Parking calculations: <ul style="list-style-type: none"> • 115 beds = 12 parking spaces. • 34 staff at staff changeover = 17 parking spaces. • 1 ambulance loading zone. Total provided: 29 car parking spaces and an ambulance loading zone in a basement.	Yes.
55 Residential care facilities for seniors required to have fire sprinkler systems A consent authority must not grant consent to carry out development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system.	The building report confirms the requirement of a fire sprinkler system. Conditions of consent are also included to require that a fire sprinkler system will be installed in accordance with the BCA and relevant Australian Standards.	Yes.

Clause 48: Standards that cannot be used to refuse consent for residential care facilities - Landscaped Area

Clause 48 of Part 7 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors) sets development standards that cannot be used as grounds to refuse consent.

The landscaped area requirements of Clause 48(c) of SEPP Seniors lists a rate of 25m² per bed within a residential care facility.

Landscaped area is defined in Clause 3 of SEPP Seniors and reads as follows:

landscaped area: means that part of the site area that is not occupied by any building and includes so much of that part as is used or to be used for rainwater tanks, swimming pools or open-air recreation facilities, but does not include so much of that part as is used or to be used for driveways or parking areas.

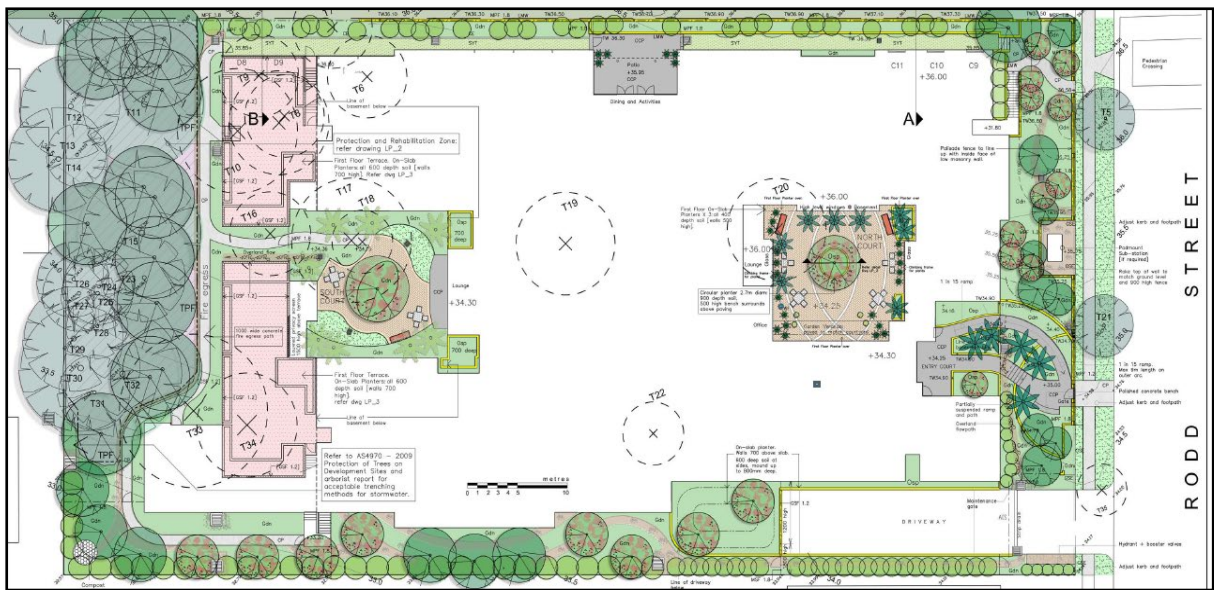


Figure 5: Landscape Site Plan (Plan reference LS1).

The development provides a landscaped area of 1884.70m² (a rate of 16.4m² per bed) and therefore is less than the required rate of 25m² per bed. It is noted that the provisions of this clause does not impose any limitations on the grounds on which a consent authority may grant development consent. In this case, the landscaped areas have been assessed on merit as discussed below.

In review of the site plan and supporting landscape plan, the development provides a variety of landscaped areas in the form of bushland gardens to the rear of the site and courtyard areas. The size of these areas and the multiple locations offer opportunities for social interaction outside the residential care facility as internal paths link the large bushland gardens to the rear courtyard area centred to the rear building. A mix of outdoor seating areas also offer opportunities for group and individual activities.

Despite that the landscaped areas as a rate generates 16.4m² per bed, this calculation does not take into consideration areas if they are 'occupied by any building' – in this case, the areas over the basement structure (the courtyards at the entry and mid-block) and the upper terrace. The inclusion of these areas assists to provide well distributed landscaping across the site for use by residents, and if included in the calculation a rate of approximately 22.6m² per bed is achieved.

It too is recognised the location of the residential care facility also benefits from close proximity to public landscaped areas within Alder Park located adjacent to the western boundary of the development. This provides residents access to additional landscaped areas within immediate walking distance from the residential care facility.

While it is recognised that the landscaped area of 25m² per bed is not provided, the landscaping remains well distributed across the site and is considered to be worthy of support.

Bankstown Local Environmental Plan 2015 (BLEP 2015)

The development site is zoned R2 Low Density Residential under BLEP 2015. An assessment of the residential care facility against the relevant provisions of the BLEP 2015 are provided below:

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 4.3 – Height of buildings
Clause 4.4 – Floor Space Ratio
Clause 5.10 – Heritage Conservation
Clause 5.21 – Flood Planning
Clause 6.2 – Earth Works
Clause 6.4 - Biodiversity

Clause 1.2 Aims of Plan**1.2 Aims of Plan**

- (a) to manage growth in a way that contributes to the sustainability of Bankstown, and minimizes the needs and aspirations of the community,
- (b) to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,
- (c) to protect the natural, cultural and built heritage of Bankstown,
- (d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,
- (e) to minimize risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,
- (f) to provide a range of housing opportunities to cater for changing demographics and population needs,
- (g) to provide a range of business and industrial opportunities to encourage local employment and economic growth,
- (h) to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,
- (i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,
- (j) to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,
- (k) to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,
- (l) to enhance the quality of life and the social well-being and amenity of the community.

Comment: The proposal generally complies with the relevant aims of this plan.

Assessment against relevant provisions of the BLEP 2015		
Provision	Proposal	Complies
<p>2.1-2.3 Land Use, Zoning and Zone Objectives</p> <p>Clause 2.3(2) of the BLEP 2012 outlines that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p> <p>The objectives of the applicable R2: Low Density Residential Zone are:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a low density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To allow for certain non-residential development that is compatible with residential uses and does not adversely affect the living environment or amenity of the area. • 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. 	<p>The land is zoned R2 Low Density Residential under BLEP 2015.</p> <p>The SEPP Seniors recognises the site as land to which policy applies for the purposes of a residential care facility.</p> <p>The development meets the relevant objectives of the R2 Low Density Residential zone</p>	<p>Yes.</p> <p>Yes.</p>
<p>Clause 4.3 – Height of buildings</p> <p>A maximum height of 9m is permitted as per the applicable Height of Buildings Map.</p>	<p>The development is below the maximum height of 9m as per the applicable Height of Buildings Map.</p>	<p>Yes.</p>
<p>Clause 4.4 – Floor Space Ratio</p> <p>A maximum floor space ratio of 0.5:1 as per the Floor Space Ratio Map.</p>	<p>A maximum floor space ratio of 1:1 applies under SEPP Seniors.</p> <p>The development complies with a floor space ratio of 0.96:1.</p>	<p>Yes – refer the assessment against SEPP Seniors</p>

<p>Clause 5.10 – Heritage Conservation</p> <p>(4) Effect of proposed development on heritage significance.</p> <p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.</p>	<p>Allder Park which adjoins the site is identified as a heritage item (archaeological sites) in Schedule 5 of the BLEP 2015. The site may be representative of a garden and grounds design associated with a late nineteenth century rural residence.</p> <p>The scope of works has been reviewed by Council's heritage officer and condition is to be included on a development consent to require the excavation to be carried out in accordance with the recommendations of the geotechnical report.</p>	<p>Yes.</p>
<p>Clause 5.21 – Flood Planning</p> <p>(1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change, (c) to avoid adverse or cumulative impacts on flood behaviour and the environment, (d) to enable the safe occupation and efficient evacuation of people in the event of a flood. <p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <ul style="list-style-type: none"> (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and 	<p>The properties are identified as being located adjacent to Council's drainage easement and are affected by local overland flooding.</p> <p>Following a review of the stormwater systems report, hydraulic plans and the flood planning level (FPL) at the 1:100 ARI (average recurrence interval) flood, Council's development engineers are satisfied with the development.</p> <p>Supporting conditions have been provided to include in a development consent.</p>	<p>Yes.</p>

<p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>		
<p>Clause 6.2 – Earth Works</p> <p>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p>	<p>A geotechnical report was prepared and considered the excavation necessary for the basement, stormwater and site works.</p> <p>That assessment has not found any adverse impacts with regard to groundwater, implications to adjoining properties or disturbance of potential archaeological relics on the adjoining Allder Park.</p>	<p>Yes.</p>

<p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>The recommendations of the geotechnical report are to be included in a development consent.</p> <p>A condition is also to include the requirement for a dilapidation report on the dwellings that adjoin the eastern boundary of the site.</p>	
<p>Clause 6.4 – Biodiversity</p> <p>(1) The objective of this clause is to maintain terrestrial and aquatic biodiversity by—</p> <p>(a) protecting native fauna and flora, and</p> <p>(b) protecting the ecological processes necessary for their continued existence, and</p> <p>(c) encouraging the conservation and recovery of native fauna and flora and their habitats.</p> <p>(2) This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider—</p> <p>(a) whether the development is likely to have—</p> <p>(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</p> <p>(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</p>	<p>This clause applies to the development site as it is land identified as “Biodiversity” on the Terrestrial Biodiversity Map of the BLEP 2015.</p> <p>As described earlier, the development seeks the removal of thirteen (13) trees on the development site, and one (1) street tree (a Weeping bottlebrush) to accommodate a new vehicle crossing.</p> <p>An arboricultural impact assessment report and a flora and fauna assessment accompanied the development.</p> <p>This included a review of 37 trees including:</p> <ul style="list-style-type: none"> • 25 trees on the site; • 3 street trees; • 9 individual trees and clusters of trees in Allder Park 	<p>Yes.</p>

<ul style="list-style-type: none"> (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and (iv) any adverse impact on the habitat elements providing connectivity on the land, and (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact. 	<p>Council's Tree Management Officers and Urban Planning and Policy Team have reviewed the reports, inspected the properties and raised no objection to the removal of the 14 trees, subject to offset plantings.</p> <p>Conditions have been provided to include in a development consent to offset the removed trees with species to be replanted from the Cooks River/Castlereagh Ironbark Forest community.</p>	
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Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. The Draft CBLEP 2020 has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now to be considered by the Department of Planning for finalisation.

The Draft CBLEP 2020 provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With review of the development, it is considered to be consistent with the aims, objectives and provisions of the draft instrument.

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

Bankstown Development Control Plan 2015

The following table provides an assessment summary of the development against relatable provisions of the Bankstown Development Control Plan 2015 (BDCP 2015).

It is noted that the BDCP 2015 does not provide specific development controls for the purposes of a residential care facility, with the exception of an applied car parking rate in Part B5 – Parking.

Assessment against relevant provisions of the BDCP 2015		
Provision	Proposal	Complies
Part B1 – Residential Development Section 2 – Dwelling Houses Storey Limit The storey limit for dwelling houses is 2 storeys.	The development is 1- 2 storeys	Complies.
Setbacks – Front 5.5m to frontage (ground floor) 6.5m to frontage (second storey)	A setback of between 6.5m - 8.1m is achieved.	Complies.
Setbacks – Side 0.9m to side boundary (for wall height of up to 7m). 1.5m to side boundary (for wall height greater than 7m) Increased setbacks required for solar access or tree retention.	A setback of 3m to 3.6m to western boundary and 2m to 9m setbacks to eastern boundary to adjoining units.	Complies.
Access to sunlight 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 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	The shadow analysis and the increased side setbacks along the eastern boundary retains sunlight to a living area and the private open space areas of each dwelling on the adjoining allotment.	Complies.
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	The development does not result in any adverse amenity impacts to the visual privacy of occupants of the adjoining developments.	Complies.

<p>(b) provide the window with a minimum sill height of 1.5 metres above floor level; or</p> <p>(c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or</p> <p>(d) use another form of screening to the satisfaction of Council.</p> <p>Building design</p> <p>Development must locate the car parking spaces behind the front building line</p> <p>The maximum roof pitch is 35 degrees</p> <p>Landscaping</p> <p>Minimum 45% of area between the dwelling house and the primary road frontage.</p>	<p>A large side setback exceeding the requirements for dwelling houses has been applied to the eastern boundary with application of screen plantings (Lilly pilly hedges and crepe myrtles) in consideration to the adjoining villa development.</p> <p>Additional screening to the rear first floor terrace has been applied as a condition on the development consent.</p> <p>Car parking spaces are provided in a basement and cannot be seen forward of the front building line.</p> <p>Roof pitches of 15 and 20 degrees are proposed on a variety of roof forms.</p> <p>An area greater than 45% is landscaped between the building and primary road frontage of Rodd Street.</p>	<p>Complies.</p> <p>Complies.</p>
<p>Part B5 – Parking</p> <p>Seniors housing</p> <p>Residential care facilities</p> <ul style="list-style-type: none"> • 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and • 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and • 1 parking space suitable for an ambulance 	<p>Parking calculations:</p> <p>115 beds = 12 parking spaces.</p> <p>34 staff at staff changeover = 17 parking spaces.</p> <p>1 ambulance loading zone.</p> <p>Total provided: 29 car parking spaces and an ambulance loading zone in the basement.</p>	<p>Complies, <u>also remains consistent with SEPP Seniors.</u></p>
<p>Part B11 – Tree Preservation Order</p> <p>Part B11 applies to the following trees:</p> <p>(a) All trees that are 5.0 metres or more in height; and</p> <p>(b) All mangroves, regardless of size; and</p> <p>(c) All trees, regardless of size, listed as Vulnerable or Endangered or a component of an Endangered Ecological Community listed under</p>	<p>As discussed earlier in Clause 6.4 – Biodiversity of the BLEP 2015.</p>	<p>Complies.</p>

<p>the Biodiversity Conservation Act 2016; and</p> <p>(d) All trees, regardless of size, listed under the Environmental Protection and Biodiversity Conservation Act 1999; and</p> <p>(e) All trees, regardless of size, located on lands included on the Terrestrial Biodiversity Map under Bankstown Local Environmental Plan 2015; a</p> <p>(f) All trees, regardless of size, located on properties listed as a heritage item in Schedule 5 of Bankstown Local Environmental Plan 2015; and</p> <p>(f) All trees, regardless of size, located in the foreshore area under the Bankstown Local Environmental Plan 2015.</p>		
<p>Part B13 - Waste Management and Minimisation</p>	<p>A waste management plan has been prepared in accordance with the requirements of Council's Waste Management Guide for New Developments.</p> <p>It has been reviewed by the Waste Management Unit and conditions have been provided to include in a development consent.</p>	<p>Complies.</p>

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

There are no planning agreements applicable to the proposed development.

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

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

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

The proposed development is not considered likely to result in any significant environmental, social or economic impacts on the locality. As detailed in this report, the development generally complies with the applicable requirements and in review is considered worthy of support. As such, it is considered that the impact of the proposed development on the locality will be acceptable.

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

The site is considered suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was advertised and neighbour notified for a period of twenty-one (21) days, from 5 August 2020 to 25 August 2020. Ten (10) submissions were received within this period.

Most concerns related to the overall size and built form of the development, car parking and traffic generation, reduced access to sunlight, removal of trees and the potential for noise and construction impacts.

Size and Built Form

In review, and as assessed in the supporting tables of the report, the overall size and the built form of the residential care facility remains consistent with the provisions set out under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors). The development complies with the relevant development standards prescribed in SEPP Seniors and presents not more than 2 storeys in height to buildings adjacent to the boundary of the site. The portion of the building located in the rear 25% of the site also does not exceed 1 storey in height. Furthermore, the development remains below the maximum building height of 9m permitted in the R2 Low Density Residential zone and consists of a residential streetscape presentation consistent within the immediate locality of Rodd Street.

Car Parking and Traffic Generation

With respect to car parking the development complies with the parking requirements of SEPP Seniors and the on site car parking rates of Part B5 – Parking, contained in Bankstown Development Control Plan 2015.

Council's Traffic and Transport Unit have reviewed the traffic report that accompanied the development application in addition to their review of traffic considerations in the locality. The assessment found that the road network was capable of accommodating the additional vehicle movements generated by the development subject to conditions to include in a development consent.

Reduced Access to Sunlight

The access to sunlight was reviewed against the controls that would be required for a dwelling house as outlined under Part B1 – Residential Development, of the BDCP 2015. In review and as outlined in the assessment tables of the report, a living area of the adjacent dwellings receive a minimum of 3 hours of sunlight between 8am and 4pm at the mid-winter solstice in accordance with the development controls.

The applicant has submitted shadow analysis to demonstrate that this level of access to sunlight is reached. It too is noted that the side setbacks of the building to the eastern boundaries are also extended beyond the 0.9m to 1.5m required to provide suitable solar retention.

Tree Removal

The proposed development seeks approval for the removal of thirteen (13) trees on the development site, and one street tree (a Weeping bottlebrush) to accommodate the new vehicle crossing.

Council's Tree Management Officers and Urban Planning and Policy Team have reviewed the reports, inspected the properties and raised no objection to the removal of the 14 trees, subject to replacement plantings.

Construction and Noise Impacts

A construction management plan is required to ensure that all details of demolition, construction and truck movements are appropriately managed.

An additional condition is imposed on the development consent that will require that liaison with the school is undertaken prior to works and as necessary throughout the construction process.

With review of the potential for noise impacts, an acoustic report was submitted to consider the potential amenity impacts on adjoining properties. Council's Environmental Health Unit have reviewed the acoustic report and have provided conditions to appropriately regulate noise sources and levels.

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

Approval of the proposed development is not considered to contravene the public interest as it supports the need to supply residential accommodation for older people and people with a disability within the local area.

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*, requiring amongst other things, an assessment against State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural areas) 2017, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, Bankstown Local Environmental Plan 2015, Draft Canterbury Bankstown Local Environmental Plan 2020 and the Bankstown Development Control Plan 2015.

It is considered that the development provides an appropriate outcome in the context of the surrounding locality and has been recommended for approval, subject to the conditions attached.

RECOMMENDATION

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

CONDITIONS OF CONSENT

These consent conditions have been imposed after taking into account the matters for consideration in determining a development application pursuant to s4.15 and in accordance with s4.17 of the *Environmental Planning & Assessment Act 1979*.

1. Approved Development

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Plan Name	Date	Revision	Prepared By
DA-04	Proposed Ground Level Site & Floor Plan	06/07/2020	1	Tregale & Associates Pty Ltd
DA-05	Proposed First Floor Plan			
DA-06	Proposed Roof Plan			
DA-07	Proposed Basement Level Plan			
DA-08	Proposed Elevations			
DA-09	Proposed Site Sections			
SK(CF)-01	External Colour & Finishes Schedule			

Note: In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

- 1.1 The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.

2. General Conditions.

- 2.1. 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.

- 2.2. A separate application shall be submitted to Council prior to the erection of any additional signage unless the proposed signage is "exempt development" in accordance with the relevant legislation.

- 2.3. The acoustic report submitted in support of this application prepared by Koikas Acoustics Pty. Ltd, titled, Acoustical Report, report number 4152R20200429as197-201RoddStSefton_DA(4), dated 16 June 2020 and all the recommendations stated within the report, form part of the development consent.
- 2.4. The plan of management submitted in support of this application prepared by Care Space Pty. Ltd. , dated, 11 June 2020, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.
- 2.5. The Flora and Fauna Assessment prepared by Niche Environment and Heritage, Project No. 5645, Rev 1, dated 4 July 2021 and all the recommendations stated within the report, form part of the development consent.
- 2.6. The Arboricultural Impact Assessment prepared by Graham Brooks Arboricultural Tree Services PTY LTD, dated 18/6/2020 and all the recommendations stated within the report, form part of the development consent.
- 2.7. The Landscape Plans by Wallman Partners Pty Ltd, Project no. 20:4:1, Issue C, Drawing nos. LP-1, LP-2, LP-3, LS-1 & S-1, Dated 27/6/2020 shall be slightly amended to include the comments noted in "Street Tree Protection Measures", "Tree Protection Measures: On Site", "Tree Removal: Nature Strip" & "Tree Planting: Nature Strip" in the recommendations section "Conditions to be satisfied prior to construction". The Landscape Plan shall also include comments noted in "Tree Planting: On Site" in the recommendations section "Conditions to be satisfied prior to occupation".

The amended Landscape Plan shall be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

- 2.8. The Remedial Action Plan, prepared by Geo-Logix Pty. Ltd., dated 23 June 2021, reference 2101051Rpf01FinalV02_23Jun21; and all the recommendations stated within the report, form part of the development consent.

3. Conditions to be satisfied prior to the issue of a Construction Certificate.

- 3.1. (Development Contributions of \$249,651.93 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Bankstown Development Contributions Plan 2019-and Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services.

Indexing of the contribution amount to be paid: The development contribution payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have occurred since the "Consent to operate from date" which appears on the front page of this Determination Notice.

No construction certificate is to be issued and no construction is to commence until payment of development contributions. The contribution must be paid to Council before the issue of any Construction Certificate. Construction of the development may NOT commence until the development contributions are paid.

A copy of the development contributions plan is available for inspection on Council's website and at Council's Administration offices in Bankstown and Campsie.

- 3.2. The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping where achievable.
- 3.3. Privacy screening is to be provided to a height of 1.6 metres from the first floor finished level of the sides of the first floor terrace areas. The structure is to be nominated on plans submitted with the construction certificate, and installed prior to the issue of the occupation certificate.
- 3.4. The kitchen and food preparation facilities must be designed, constructed and operated in accordance with the relevant requirements of:
 - a. The NSW Food Act 2003 and Food Regulation 2004
 - b. FSANZ Food Standards Codes 3.2.2 and 3.2.3 Australian Standard AS 4674-2004 (Construction and Fitout of Food Premises)
 - c. The Building Code of Australia
 - d. The Protection of the Environment Operations Act 1997
 - e. Australian Standard AS 1668 Part 1 and Part 2 (The use of ventilation and air-conditioning in Buildings)
 - f. Sydney Water Corporation (Trade Waste Section)
- 3.5. A Trade Waste Agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Wastewater treatment equipment is to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund. All wastewater treatment devices shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.
- 3.6. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the principal certifier prior to the issue of a construction certificate. The landscape plan must be prepared in accordance with Bankstown DCP 2015 and must include the following features, notations and specifications:

- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
 - b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
 - c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), and
 - d. Details of drainage and watering systems (if any).
- 3.7. The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 3.8. Approval in accordance with Council's Tree Protection Order (TPO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TPO to be breached shall be guilty of an offence and liable for prosecution.
- 3.9. Before the issue of a construction certificate or, the person having benefit of this Determination Notice is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- a. Council's development control plan,
 - b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
 - c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The person having benefit of this Determination Notice must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 3.10. Before the issue of a construction certificate, the person having benefit of this Determination Notice is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
- a. Council's Waste Management Development Control Plan.
- 3.11. Before the issue of the relevant construction certificate, the person having benefit of this Determination Notice must submit the following written evidence of service provider requirements to the certifier:
- a. a letter of consent from the relevant electricity provider demonstrating that satisfactory arrangements can be made for the installation and supply of electricity; and
 - b. a response from the relevant water authority as to whether the plans proposed to accompany the application for a construction certificate would affect any the relevant water authority infrastructure, and whether further requirements need to be met; and
 - c. a letter of consent from the relevant telephone and broadband authority demonstrating that satisfactory arrangements can be made for the installation and supply of telephone and internet; and
 - d. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.
- 3.12. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.
- Refer to www.sydneywater.com.au/tapin for Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPINTM.
- Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.
- 3.13. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 3.14. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](http://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.

- 3.15. Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a Construction Certificate.
- 3.16. Prior to the issue of a Construction Certificate, the site is to be remediated in accordance with:
- The approved Remedial Action Plan, prepared by Geo-Logix Pty. Ltd., dated 23 June 2021, reference 2101051Rpf01FinalV02_23Jun21;
 - State Environmental Planning Policy No. 55 - Remediation of Land;
 - The guidelines in force under the Contamination Land Management Act 1997; and

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

- 3.17. Prior to issue of the Construction Certificate, the proponent must submit a detailed validation report to Council and the principal certifying authority.

The validation report must be prepared in accordance with:

- 'State Environmental Planning Guideline (SEPP) 55 – Remediation of Land' (Department of Urban Affairs and Planning and NSW EPA, 1998);
- Relevant EPA Guidelines, noting the 'Guidelines for Consultants Reporting of Contaminated Land 2020 and
- National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The validation report must be prepared or reviewed and approved by an appropriately qualified environmental consultant. The validation report must verify that the land is suitable for the proposed use, and that the remediation and validation of the site has been undertaken in accordance with the approved Remedial Action Plan, prepared by Geo-Logix Pty. Ltd., dated 23 June 2021, reference 2101051Rpf01FinalV02_23Jun21.

- 3.18. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.

- 3.19. A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:

- A medium duty VFC at the property boundary.
- Drainage connection to Council's system.

- c) Concrete footway paving along the site's entire frontage.
- d) Concrete kerb and gutter along the entire frontage.
- e) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
- f) Repair of any damage to the public road including the footway occurring during development works.
- g) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: 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.

- 3.20. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Car parking and Council's development control plan.
- 3.21. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
 - a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the Principal Certifier prior to the issue of the construction certificate.
 - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 3.22. An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.

3.23. Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 20474_DA_C100, rev 05 dated 18/6/2020 prepared by henry & hymas. The final plan shall be amended as follows:

- a. Pits (A-4, A-5 & A-6) internally located within building footprint shall be covered using appropriate sealed covers.

The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

3.24. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements aisle widths, aisle lengths, and parking bay dimensions shall be in accordance with the Australian Standard AS 2890 parking series.

3.25. The subject site is located adjacent to Council's drainage easement and is affected by local overland flooding and shall comply with the following:

- a. The proposed building(s) including eaves and gutters shall be located clear of existing and proposed Council easements within the site. Amended plans to this effect shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. All approved construction details shall be consistent with this requirement. Proposed buildings shall be located clear of floodways through the site.
- b. 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 Development Engineering Standards. 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 details for approval of the Construction Certificate. A copy of the approved details 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.
- c. The minimum finished floor level of the proposed habitable structures shall be constructed at least RL 33.3m AHD including freeboard. All approved construction details shall be consistent with this requirement.
- d. Landscaping within Council's drainage overland flowpath shall be limited to grassed or paved surfaces only. Where pavers are to be used they shall be constructed integral with a concrete base to prevent scour and uplifting. Final details suitable for construction prepared by a qualified professional Civil Engineer shall be submitted to the PCA prior to the issue of the Construction Certificate. A copy of the approved landscaping details shall be submitted to Council for information.

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

This plan shall include details of the following:

- a. Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b. Proposed liaison methods with the Sefton Infants School is undertaken prior to works and as necessary throughout the construction process.
- c. Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- d. 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.
- e. 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.
- f. Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

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

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

- 3.27. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the *Roads Act 1993* and/or Section 68 of the *Local Government Act 1993*, Council requires the person having benefit of this Determination Notice to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit prior to issue of any construction certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

The person having benefit of this Determination Notice shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

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

4. Conditions to be satisfied prior to construction

- 4.1. All project staff and contractors will be inducted on the environmental sensitivities of the work site and relevant safeguards. All sensitive environmental areas within or immediately adjacent to the project footprint, including the protection and rehabilitation zone and the vegetation in Alder Park will be delineated as 'no go' zones prior to commencement of works.
- 4.2. The demolition of all structures currently existing on the property must be undertaken, subject to strict compliance with the following: -
- a. The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
 - b. Written notice is to be given to Canterbury-Bankstown Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Canterbury-Bankstown Council:
 - (i) A *pre-commencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
 - (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

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

- c. Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.
- d. Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.

- e. The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f. Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g. The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h. Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current Workcover Accreditation in asbestos removal.
- i. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the NSW EPA 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes 2004'.
- j. Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k. During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- l. All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.
- m. The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- n. Care shall be taken during demolition to ensure that existing services on the site (ie. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
- o. Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
- p. Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- 4.3. A construction certificate is required for the erection of a building in accordance with this Determination Notice.

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

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,
 - b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
 - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
 - d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
 - ii. notified the principal certifier of the appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
 - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 4.4. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 4.5. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

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

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

- 4.6. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.
- 4.7. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 4.8. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 4.9. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 4.10. Works on downstream properties is to be carried out in accordance with the following:
 - a. The owners of downstream property shall be given at least seven (7) days notice in writing of intention to commence work within their property, together with particulars of the proposed work.
 - b. Where drainage excavation works extend below the level of the base of the footings of buildings the Applicant shall, at his own expense: -
 - i. Preserve and protect such building from damage; and
 - ii. If necessary underpin and support such buildings.
 - c. Restoration of drainage works shall be to the satisfaction of the owners of the property/these properties.
- 4.11. The following street tree shall be retained and protected from removal and damage for the duration of the development:

Tree Species	Location
2 x Callistemon viminalis (Weeping Bottlebrush)	Nature strip forward of the property line of no.199 & 201 Rodd Street

Tree protection measures shall comply with Australian Standard AS4970-2009 Protection of trees on development sites, together with the following conditions:

- The area of Council's nature strip – excluding a 1200 mm wide pedestrian access corridor along the front boundary of the property - shall be fenced off for a distance of 2.5 metres radius measured from the trunk of the tree prior to the commencement of demolition. The tree protection fencing is to be constructed of chain wire mesh 1.80 metres high, supported by steel posts and shall remain in place throughout the duration of site works.
- The applicant will display in a prominent location on the fencing of each tree protection zone a durable, weather resistant sign of a similar design, layout and type size as per Appendix C, Australian Standard AS4970-2009 Protection of trees on development sites clearly showing:
 - The Development Consent number;
 - The name and contact phone number of the consultant arborist / site manager (nominate whoever is applicable);
 - The purpose of the protection zone;
- No vehicular access, excavations for construction or installation of services shall be carried out within the fenced off Tree Protection Zone.
- All utility services, pipes, stormwater lines and pits shall be located outside the fenced off Tree Protection Zone.
- Building materials, chemical storage, site sheds, wash out areas, waste material and similar shall not be located within the fenced off Tree Protection Zone.
- Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.

4.12. Approval is granted for the removal of the following tree:

Tree Species	Location
1 x <i>Callistemon viminalis</i> (Weeping bottlebrush)	On the left hand side of the nature strip forward of the property line closest to the new proposed Vehicle Crossing (V.C) of no.197 Rodd Street

The tree removal works are subject to the following conditions:

- All tree removal works must be carried out by a qualified arborist - minimum qualification Australian Qualification Framework (AQF) Level 3 or equivalent;
- The tree removal contractor must hold a Public Liability Insurance Certificate of Currency with a minimum indemnity of \$20 million, together with a NSW Workers Compensation Insurance Certificate of Currency;
- The tree removal work shall comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and the Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016);
- The tree stump is to be ground to 300mm below ground level. Investigation to locate underground services shall be the responsibility of the applicant.

- All tree material shall be removed from site, and the nature strip shall be backfilled, compacted and restored to the original level.
- The site must be maintained in a safe condition at all times;
- Appropriate hazard signage to be in place at all times during the tree works.

All other street vegetation not specifically identified above is to be retained and protected from construction damage and pruning.

- 4.13. The applicant is to plant the following replacement trees on the nature strip forward of the property. 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 No. S-202.

Tree Species	Location
2 x <i>Tristaniopsis laurina</i> "Luscious" (Watergum)	Trees to be planted on the nature strip forward of the new property line in suitable locations and no closer than 2.5m from the new proposed Vehicle Crossing (V.C)

Investigation to locate underground services shall be the responsibility of the applicant. Should such services be located and there is a reasonable belief that damage may occur to those services by the new plantings, the applicant is to:

- Carry out engineering works to protect those services from damage; or
- Relocate the plantings to a more suitable location following written approval from Canterbury Bankstown Council; or
- Substitute the approved tree species with an alternative species following written approval from Canterbury Bankstown Council.

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.

Once the trees have been planted, a tree protection fence located at a 2.0 metre radius from the trunk of each tree shall be installed to protect the trees during the demolition and construction phases. The fences shall be constructed of chain wire mesh 1.80 metres high supported by steel posts, shall not be removed or altered, and are to remain in place for the duration of the site works.

During the construction phase the trees shall be watered and maintained in accordance with the tree establishment and maintenance requirements included in Standard Drawing No. S-202.

The Applicant shall contact Council to book an inspection by the Tree Management Officer of the completed tree planting once the tree protection fence has been installed, and again once the works have been completed prior to the issue of an occupation certificate. Inspections must be booked at least 5 working days prior to being required.

- 4.14. The following trees shall be retained and protected from removal and damage for the duration of the development:

Tree Species	Location	Protection Zones*
All trees noted in Landscape Architects Plans	Tree Protection Zone southern section of new common block with area 1884.7m2 as per Landscape Architects Plans	Designated Tree Protection Zone (PCT 725) as per Landscape Architects Plans

TPZ and SRZ in metres measured from the centre of the trunk of the tree.

Tree protection measures shall comply with Australian Standard AS4970-2009 Protection of trees on development sites, together with the following conditions:

- The trees to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
- All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.
- A designated Tree Protection Zone shall be created on site by erecting a continuous tree protection fence at 15m from the common southern boundary running from the eastern boundary of no.197 Rodd Street to the western boundary of 201 Rodd Street . The fence is to be constructed of chain wire mesh 1.80 metres high supported by steel posts. The fence is to be installed prior to demolition / construction, shall not be removed or altered, and is to remain in place for the duration of the site works;
- No vehicular access, excavations for construction or installation of services shall be carried out within the fenced Tree Protection Zone.
- All utility services, pipes, stormwater lines and pits shall be located outside the fenced Tree Protection Zone.
- Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced Tree Protection Zone.
- Trees marked for retention must not to be damaged or used to display signage, or as fence or cable supports for any reason.
- If tree roots are exposed during approved works, roots with a diameter less than 25mm are to be pruned cleanly using sharp hand tools and not torn or ripped by machinery. Tree roots greater than 25mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken. If necessary, changes in design or relocation of works may be required.

- 4.15. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

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

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

- 4.17. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

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

5. Conditions to be satisfied during construction.

- 5.1. Construction work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- 5.2. Building work must be carried out in accordance with the requirements of the BCA.

- 5.3. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
- a. All footings/ foundations
 - b. At other stages of construction – any marks that are required by the principal certifier.
- 5.4. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown 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.
- 5.5. 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 an 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.

- 5.6. All soils and material, liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and related guidelines, the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.

The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the Principal Certifying Authority before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.

All waste material must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an Occupation Certificate.

All waste must be transported by a contractor licensed to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

- 5.7. All 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.

All waste material for disposal to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an Occupation Certificate.

- 5.8. 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).

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an Occupation Certificate. All imported fill must be compatible with the existing soil characteristics of the site.

- 5.9. 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.

- 5.10. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
- b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.

- 5.11. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —

- a. Protect and support the building, structure or work from possible damage from the excavation, and
- b. Where necessary, underpin the building, structure or work to prevent any such damage.

This 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.

- 5.12. All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 5.13. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 5.14. The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.

6. Conditions to be satisfied prior to occupation.

- 6.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 6.2. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 6.3. The operator of the premises must register the business with the Compliance Unit of Council and arrange an inspection with Council's Environmental Health Officer.
- 6.4. Trading must not commence until a final inspection has been carried out by Council's Environmental Health Officer and ALL conditions of this consent have been complied with.
- 6.5. Consolidation of the existing allotments must be registered by NSW Land Registry Services prior to the issue of an occupation certificate.
- 6.6. An identification report by a registered surveyor must be submitted to the principal certifier to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 6.7. Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the

development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.

- 6.8. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.
- 6.9. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 6.10. The results of the Flora and Fauna Assessment, and the locations of the 10 *Acacia pubescens* individuals to be planted are to be submitted to BioNet.
- 6.11. Off street car parking spaces shall be provided/maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained.
- 6.12. The Arboricultural Impact Assessment states that the following will be conducted upon completion of the development:

“10.3.1 Final visit from the site arborist to report on the health and condition of the trees that have been retained and the removal of tree protection. Incidents documented during the development stage will be included in this report.

10.3.2 Any remedial work necessary upon the completion of development will be recommended in the final report.”

The final report must be provided to Council for review prior to the issue of an occupational certificate.

- 6.13. The applicant is to plant 23 x replacement trees on the site as follows:
- 6 x replacement trees of *Eucalyptus* / *Corymbia* species known to attain a minimum height of 12-18 metres at maturity in suitable locations in the landscaping site areas.
 - 17 x replacement trees known to attain a minimum height of 8-18 metres at maturity in the designated Tree Protection Zone as per Landscape Architects Plans.
 - Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order.

- 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
- The trees shall be planted no closer than 3.5metres from the wall of any approved dwelling on the property.
- The trees shall be planted so that future growth is not in conflict with overhead electricity wires.
- The trees shall be maintained for the life of the development.

6.14. Off street car parking spaces shall be provided/maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained.

6.15. Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. All lighting must be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.

6.16. The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of an occupation certificate.

7. Conditions of use.

7.1. Car parking spaces for 29 vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.

7.2. The use of the saloon services and operation of the kitchen is for use of residents and staff only as an ancillary function of the residential care facility.

7.3. All mechanical exhaust ventilation systems in the development shall be serviced regularly in accordance with the manufacturers and /or installers specifications. A record of all maintenance activities to exhaust extraction equipment shall be maintained at the premises and provided to Council upon request.

7.4. Landscaping is to be installed in accordance with the approved landscape plan and conditions contained in the development consent. The landscaping shall be maintained for the life of the development.

7.5. Waste and recycling collection services are to be provided by a private contractor. Council shall under no circumstances be liable or obliged to undertake waste collection services at this development, including but not limited to any instance where the proposed or any other private contractor is unable or unwilling to service the development.

- 7.6. The bin allocation and collection frequencies below must at all times be maintained to meet, at minimum, the abovementioned level of waste generation:
- 21 x 240L general waste bins (collected twice weekly)
 - 6 x 240L recycling bins (collected weekly)
 - 7 x 240L cardboard bins (collected weekly)
 - 1 x 240L medical waste bin (collected monthly)
- 7.7. There is to be 1.5m of aisle space between rows of bin, with all doorways and pathways used for bin-carting a minimum of 2m in width with no steps or obstacles.
- 7.8. The bin storage area is to be signposted 'Waste & Recycling' at the entrance.
- 7.9. Following occupation of the building, 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.
- 7.10. 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).
- 7.11. 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.
- 7.12. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 7.13. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, '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. 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.

- 7.14. All loading and unloading of goods shall take place within the site in a manner that does not interfere with parking areas, driveways or landscaping.
- 7.15. There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 7.16. All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.
- 7.17. The use of the premises shall not contravene the *Protection of the Environment Operations Act 1997*. The operation of the premise shall be carried out in accordance with the requirement of the NSW EPA, where relevant.
- 7.18. No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 7.19. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.

-END-

Canterbury Bankstown Local Planning Panel - 11 October 2021

ITEM 3	DA-1053/2020 - 67 Lambeth Street, Panania NSW 2213
	Demolition of existing structures and construction of a two-storey, 76 place child care centre with basement car parking
FILE	DA-1053/2020 - Revesby Ward
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	18 November 2020
APPLICANT	Montessori Academy Group Developments Pty Ltd
OWNERS	CCA Investments Penrith Pty Ltd
ESTIMATED VALUE	\$3,210,746
AUTHOR	Planning

SUMMARY REPORT

In accordance with the Local Planning Panels Direction made by the Minister for Planning and Public Spaces, the Canterbury-Bankstown Local Planning Panel is required to determine applications involving development to which ten or more unique submissions against the development have been received. The development proposed under DA-1053/2020 meets this criteria, with 22 submissions being received and is therefore reported to the Canterbury-Bankstown Local Planning Panel for determination.

Development Application No. DA-1053/2020 proposes the demolition of existing structures and construction of a two-storey, 76-place child care centre with basement car parking.

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, and assessment against the provisions contained in *State Environmental Planning Policy No. 55 - Remediation of Land*, *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*, *Greater Metropolitan*

Regional Environmental Plan No 2 – Georges River Catchment, Bankstown Local Environmental Plan 2015, Draft Consolidated Canterbury Bankstown Local Environmental Plan and Bankstown Development Control Plan 2015.

The application was advertised for a period of 21 days between 2 December 2020 and 13 January 2021. There were 22 submissions received.

The assessment of the subject Development Application against the matters for consideration contained in Section 4.15(a) of the *Environmental Planning and Assessment Act 1979*, found that the proposed development is worthy of support.

POLICY IMPACT

The proposed development will not have any direct policy impacts.

FINANCIAL IMPACT

The proposed development will not have any direct financial impacts.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-1053/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 67 Lambeth Street, Panania. The site is a regular shaped allotment that is zoned R2 Low Density Residential, has a maximum permissible building height of 9m and a maximum permissible FSR of 0.40:1 under the Bankstown Local Environmental Plan 2015.

The site is located on the eastern side of Lambeth Street, approximately 30 metres south of the street intersection with Tate Street. The site has an area of 1138.2sqm with a frontage of 27.13m to Lambeth Street. The site has a gentle slope from the rear of the site towards the street and is currently occupied by a single storey dwelling house, a detached outbuilding, two semi-mature trees in the rear yard (being a Crimson Bottlebrush and a Norfolk Island Pine) and a number of small trees/shrubs.

The surrounding sites are predominantly occupied by single dwelling houses of varying age and condition as seen below in the aerial image.

Figure 1: Aerial of subject site in blue. **Source:** NearMaps 2021



PROPOSED DEVELOPMENT

The development application proposes the demolition of existing structures and construction of a two-storey, 76-place child care centre with basement car parking.

The specifics of the development are as follows:

Floor	Description
Basement	Nineteen (19) car spaces, one (1) motorcycle parking space, bicycle rack, lift & services.
Ground Floor	Two (2) indoor play areas, outdoor play area, kitchen, staff room, toilets/changing facilities, administration rooms, bin store and lift.
First Floor	Indoor play area, outdoor play area, toilets and lift.

The operational details for the proposed child care centre are as follows:

- Number of children:
 - Sixteen (16) x 0-2 year olds;
 - Thirty (30) x 2-3 year olds; and
 - Thirty (30) x 3-6 year olds.
- Number of employees:
 - Thirteen (13)
- Hours of operation:
 - Monday to Friday – 7.00am to 6.00pm

AMENDMENTS MADE TO THE DEVELOPMENT APPLICATION

It is worth noting, that the application has undergone a number of amendments from the original submission. Most notable of these changes is that 118sqm of GFA was removed from the centre in order to achieve compliance with the maximum permitted 0.4:1 FSR for non-residential development in the R2 Low Density Residential zone, and subsequently the number of proposed children was reduced from ninety (90) to seventy six (76).

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:

- Education and Care Services National Regulations
- State Environmental Planning Policy 55 – Remediation of Land

- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
- Bankstown Local Environmental Plan 2015
- Bankstown Development Control Plan 2015

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 55 – Remediation of Land

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

A Detailed Site Investigation (DSI) was prepared in support of this application by Geotechnical Consultants Australia (GCA). The DSI found that no Asbestos Containing Material (ACM) was identified on the surface or throughout any of the drilling onsite, nor was any foreign material identified within the soil. Based on the age of the onsite structures it is assumed both have potential ACM, however only through a Hazardous Materials Survey (HMS) can this be confirmed.

Laboratory analysis of the soil samples indicate that the levels of TRH, BTEX, OCP/OPP and heavy metals were below the Health Investigation and Screening Levels for Residential Land Use A, which is the most appropriate and stringent for the proposed land use. Therefore, GCA finds that the site is suitable for the proposed development and land use, providing the recommendations within Section 10 of this report are undertaken.

The recommendations are as follows:

- *Any soils requiring excavation, onsite reuse and/or removal must be classified in accordance with “Waste Classification Guidelines Part 1: Classifying Waste” NSW EPA (2014);*
- *All structures on the site should have a HMS conducted by a qualified occupational hygienist and/or environmental consultant for the site prior to any demolition or renovation works in accordance with relevant Australian Standards, SafeWork NSW codes of practice and any other applicable requirements;*

- *The demolition of any structures and excavation activity on site be undertaken in accordance with relevant Australian Standards, SafeWork NSW codes of practice and any other applicable requirements;*
- *A site specific 'Unexpected Finds Protocol' is to be made available for reference for all occupants and/or site workers in the event unanticipated contamination is discovered, including asbestos.*
- *If any unexpected occurrence happens on the site, all work activity should be ceased temporarily and an environmental consultant should be notified immediately.*

The submitted DSI was reviewed by a Council Environmental Health Officer, who determined that based on the submitted information, the application was worthy of support, subject to conditions. As such, it is considered that the proposal is consistent with the requirements of SEPP 55.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 applies to the development and the existing vegetation on the site.

In front of the site in the road reserve, exists a Weeping Bottlebrush. This tree is located in proximity to the proposed driveway, however the consulting arborist and Council's Tree Management Team have concluded that the tree is worthy of retention, and that retention can be achieved notwithstanding a 13% incursion to the Tree Protection Zone.

Two significant trees exist on the development site, being a Crimson Bottlebrush and a Norfolk Island Pine, both of which are situated in the rear yard. Council Tree Management Team assessed the proposal and provided the following comments:

Crimson Bottlebrush

The Crimson Bottlebrush is located within the footprint of the basement car park and requires removal to facilitate the development. There is no objection to the removal of this tree.

Norfolk Island Pine

The Norfolk Island Pine is not suitably located to achieve maturity and is an unsuitable species for a child care centre due to falling cones and choking hazards. There is no objection to the removal of this tree.

The tree removal is contingent on the re-planting of six (6) canopy trees, three (3) of which are to be in the front setback and be species that reach a minimum height of 10m at maturity and three (3) of which are to be in the rear of the site and be species capable of achieving 15m at maturity.

Based on the above, it is considered that the proposed development is consistent with the relevant provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

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

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 applies to the subject application. The table below provides a summary of the assessment of the proposed development against the applicable requirements of Part 3 'Early education and care facilities—specific development controls'.

Regulation	Proposed	Compliance
<p>Clause 23 Centre-based child care facility—matters for consideration by consent authorities</p> <p>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i>, in relation to the proposed development.</p>	<p>An assessment of the proposed development against the Child Care Planning Guideline has been undertaken, with the proposed development being consistent with the relevant provisions.</p>	Yes
<p>Clause 25 Centre-based child care facility—non-discretionary development standards</p> <p>(1) The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space</p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p>	<p>The non-discretionary site area and site dimensions standard allows a child care centre to be located on a site of any size and have any length of street frontage or any allotment depth.</p> <p>It is noted that this control prevails over the child care centre capacity requirements of Clause 3.2, Part B6 of BDCP 2015.</p>	Yes

<p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p>		
<p>Clause 26 Centre-based child care facility—development control plans</p> <p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for a centre-based child care facility:</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in:</p> <p>(i) the design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p> <p>(2) This clause applies regardless of when the development control plan was made.</p>	<p>The requirements of this clause were considered during the assessment of the development application. The proposed development is not inconsistent with these requirements.</p>	<p>Yes</p>

As outlined above, Clause 23 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* requires a consent authority to take into consideration the *Child Care Planning Guideline* when assessing a development application for a centre-based child care facility. Accordingly, an assessment of the proposed development against Parts 2, 3 and 4 of the Guideline has been undertaken with compliance being achieved with the relevant provisions. The following table demonstrates compliance with the *National Quality Framework Assessment Checklist* contained in Part 4, Section D of the Guideline.

Part 4 – Applying the National Regulations		
Regulation	Proposed	Compliance
104. Fencing or barrier that encloses outdoor spaces Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The proposed child care centre is to incorporate fencing to the side and rear boundaries of the site to a height of between 1.8m and 2.0m, as well as child-safe balustrading to the pedestrian access ramp and entry area in the front setback of the site.	Yes
106. Laundry and hygiene facilities The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering. Laundry/hygienic facilities are located where they do not pose a risk to children.	The proposed development incorporates a laundry and hygiene facility on the ground floor of the building in an enclosed and secure room, and in a location that does not pose a risk to children.	Yes
107. Unencumbered indoor space The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.	The application seeks approval for a maximum capacity of seventy six (76) children. Required: 247.0sqm Proposed: 252.0sqm	Yes
108. Unencumbered outdoor space The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.	The application seeks approval for a maximum capacity of seventy six (76) children. Required: 532.0sqm Proposed: 649.0sqm	Yes
109. Toilet and hygiene facilities The proposed development includes adequate, developmentally and age-appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.	The proposed toilets and hygiene facilities are considered adequate in terms of size, location, and fixtures suitable for the use of children.	Yes

The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.		
110. Ventilation and natural light The proposed development includes indoor spaces to be used by children that — <ul style="list-style-type: none"> • will be well ventilated; and • will have adequate natural light; and • can be maintained at a temperature that ensures the safety and well-being of children. 	The proposed child care centre, in particular the indoor play areas, contains multiple north, east and west facing windows to achieve natural light and ventilation to internal areas. Further the centre is able to be maintained at a temperature that ensures the safety and wellbeing of children.	Yes
111. Administrative space The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.	The proposed child care centre incorporates a reception/sign-in area and an office/meeting room on the ground floor, in addition to a staff room and kitchenette also on the ground floor.	Yes
112. Nappy change facilities The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area. The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.	The proposed child care centre incorporates an appropriately designed nappy change area adjoining play room 1 (for 0-2 year olds). The area contains two nappy change benches with four change areas and sanitary facilities.	Yes
113. Outdoor space—natural environment The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.	The outdoor spaces accommodate a mixture of rubberised softfall, sand pits, decking and vegetable gardens and landscaping.	Yes
114. Outdoor space—shade The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	The outdoor spaces accommodate a covered areas and shade cloth suitable for wet weather and sun-shading. A condition of consent is recommended to be imposed requiring additional shading devices be installed for the first floor outdoor play area, with the devices required to not project above the approved roof or wall lines.	Yes
115. Premises designed to facilitate supervision The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at	The child care centre incorporates multiple vision panels between children's play areas and bathroom facilities, and the hallway areas, staff areas and kitchen to facilitate	Yes

all times, having regard to the need to maintain the rights and dignity of the children.	supervision at all times. Screening is provided between each of the children's toilets to maintain dignity.	
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As outlined in the tables above, the proposed development satisfies the relevant provisions of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* and the *Child Care Planning Guideline*.

State Environmental Planning Policy No 64—Advertising and Signage

State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64) aims to control the design and quality of signage and applies to the subject development. The signage of the development has been assessed against the assessment criteria contained within schedule 1 of SEPP 64 and is considered worthy of support.

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

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

Bankstown Local Environmental Plan 2015

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

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 6.2 – Earthworks
- Clause 6.8 – Special provisions applying to centre-based child care facilities

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

Standard	Required	Proposed	Compliance
Clauses 2.1-2.3 – Zoning	The site is zoned R2 Low Density Residential	Child care centres are permitted with consent in the R2 Low Density Residential zone.	Yes
Clause 4.3 – Height of buildings	Max. 9 metres	The proposed development has a maximum height of 8.8 metres.	Yes
4.4 – Floor space ratio	Max. 0.40:1 (for non-residential development)	0.39:1 (i.e. 450sqm of GFA)	Yes
6.8 – Special provisions applying to centre-based child care facilities	Development consent must not be granted for the purpose of a centre-based child care facility on land if the vehicular access to that land is from: (a) a classified road, or (b) a cul-de-sac or road where the carriageway between kerbs is less than 10 metres.	Lambeth Street is not a classified road. Lambeth Street is not a cul-de-sac road and does not have a carriageway that is less than 10 metres wide between kerbs.	Yes

It is considered that the proposed development satisfies the applicable aims, objectives and development standards of BLEP 2015.

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 adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now being considered by the Department of Planning Industry and Environment for finalisation. 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 is considered to be consistent with the draft instrument.

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

Bankstown Development Control Plan 2015

The development application has been assessed against the provisions contained within Parts B5 - Parking, B6 – Child Care Centres and B11 – Tree Preservation Order of the Bankstown Development Control Plan 2015 (BDCP 2015).

Part B5 – Parking

Part B5 of BDCP 2015 supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of off-street parking.

Part B5 of the BDCP 2015 provides the following car parking rate for child care centres:

1 car space per 4 children and 2 additional car spaces for the exclusive use of any associated dwelling.

The application proposes 76 children and based on the above rate, 19 car spaces are required to be provided. No dwelling is proposed in association with the use. The proposed 19 car spaces in the basement car park is therefore compliant with Part B5 of the BDCP 2015.

Part B6 – Child Care Centres

Part B6 of BDCP 2015 supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of child care centres. The development controls include storey limits, setbacks, building design, acoustic privacy, landscaping, traffic management, access and parking.

The following table provides a summary of the development against the primary controls contained in Part B6. It is noted, however, that Clause 26 'Centre-based child care facility—development control plans' of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* stipulates that a provision of a development control plan that specifies a requirement, standard or control in relation to operational or management plans or arrangements, demonstrated need or demand for child care services, proximity of facility to other early education and care facilities, and any matter relating to Parts 2, 3 and 4 of the *Child Care Planning Guideline*, do not apply to development for the purpose of a centre-based child care facility. Accordingly, all development controls relating to these matters have been omitted from the table below.

Control	Required	Proposed	Compliance
2.1 – Traffic management (environmental capacity)	<p>Development for the purpose of child care centres must not result in a street in the vicinity of the development site to exceed the environmental capacity maximum.</p> <p>If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street.</p>	<p>A Traffic and Parking Impact Assessment report was submitted with the development application.</p> <p>Council's Traffic team reviewed the report and proposed development, and confirmed that the development is suitable for approval and will not exceed the environmental capacity maximum.</p>	Yes

2.2 – Traffic management (level of service)	<p>Development for the purpose of child care centres must not result in a street intersection in the vicinity of the development site to have a level of service below Level B.</p> <p>If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.</p>	Council's Traffic and Transport Team did not identify that the proposed development will result in a street intersection in the vicinity of the development site to have a level of service below Level B.	Yes
2.3 – Traffic impact studies	Development applications must submit a Traffic Impact Study based on the RTA Guide to Traffic Generating Developments.	A Traffic and Parking Impact Assessment report was submitted with the development application, reviewed by Council's Traffic and Transport Team, and is considered to be acceptable.	Yes
3.3 and 3.5 – Storey limit	<p>The storey limit for child care centres is 2 storeys.</p> <p>Facilities or activities for children aged 0-2 years must solely locate on the first storey (i.e. ground floor) of a building to ensure the safe evacuation of children during emergencies.</p>	<p>The proposed development is 3 storeys.</p> <p>The indoor play area for children aged 0-2 years is located on the ground floor.</p>	<p>No – See discussion below table</p> <p>Yes</p>
3.6 and 3.9 – Setbacks	<p>The minimum setback for child care centres in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential is:</p> <p>(a) 5.5 metres to the primary road frontage; (b) 3 metres to the secondary road frontage; and (c) 1.5 metres to the side boundary.</p> <p>Child care centres must ensure the siting of outdoor areas (such as a balcony or deck) and outdoor play areas avoids:</p> <p>(a) A living area or bedroom of an adjoining dwelling.</p>	<p>Front setback: min. 5.5 metres.</p> <p>Side setback: min. 1.5 metres.</p> <p>The development site does not adjoin a major road, nor are the siting of outdoor areas likely to create high noise impacts on surrounding residential properties.</p> <p>The recommendations of the Acoustic Report have been incorporated into the design and are included as a condition of consent.</p>	Yes

	<p>(b) A road and driveway that may have noise or a possible pollution impact on children.</p> <p>(c) Any other potential noise or pollution source.</p> <p>(d) Any potential traffic hazard locations where an out-of-control vehicle may injure children.</p>		
3.10 – Deep soil zones	<p>Child care centres in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential must provide:</p> <p>(a) a minimum 2-metre-wide deep soil zone along the primary road frontage and secondary road frontage of an allotment; and</p> <p>(b) a minimum 1.5 metre wide deep soil zone around the perimeter of the outdoor play area, to act as a buffer to the fence, provide spatial separation to neighbouring properties and enhance the aesthetic quality of the space.</p> <p>The deep soil zone must be landscaped by way of deep soil plantings and canopy trees.</p>	The proposed development includes a 4.5 metre wide deep soil zone along the primary road frontage and a 1.5 metre wide deep soil zone around the perimeter of the outdoor play area. The landscape plan identifies plantings and canopy trees in the deep soil zone that grow up to 15 metres in height at maturity.	Yes
3.12 – Access	Child care centres must be easily accessible to people with disabilities and must comply with the Building Code of Australia and Australian Standard 1428 Parts 1 to 4–Design for Access and Mobility.	The proposed development was referred to Council's Building Certification Team for review, and was considered to be acceptable with respect to accessibility and mobility requirements.	Yes
3.13 and 3.14 – Car parks	The minimum number of car parking spaces required for child care centres is 1 car space per employee (stack parking is permitted) and 2 additional car spaces for the exclusive use of any associated dwelling.	<p>See assessment above under Part B5 of BDCP 2015.</p> <p>The siting and design of the driveway and basement was reviewed by Council's Development Engineering</p>	Yes

	The siting and design of car parks and driveways must ensure the safe movements of people and vehicles to and from child care centres.	Team and is considered to be acceptable. The design allows all vehicles to enter and exit the site in a forward direction.	
4.1 – Energy efficiency	<p>Child care centres must make efficient use of natural resources and optimise amenity in the design, construction and occupation of buildings and facilities, such as:</p> <ul style="list-style-type: none"> (a) good orientation and natural light to rooms and play areas; (b) limiting building depth to provide natural cross-ventilation and natural light; (c) minimal use of mechanical ventilation; (d) use of sun shading devices; (e) preventing UV factor to open areas; and (f) ensuring the development adapts to the existing topography by avoiding excessive cut and fill. 	<p>The layout of the child care centre has been appropriately designed so that indoor and outdoor play areas maximise solar access, shade devices have been proposed to outdoor play areas, and natural cross-ventilation is provided throughout the building.</p> <p>The proposed development does not require excessive cut and fill.</p>	Yes
4.2 and 4.3 – Access to sunlight	<p>The design of buildings should achieve a northern orientation to maximise solar access.</p> <p>The design of buildings must ensure that:</p> <ul style="list-style-type: none"> (a) At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling. 	<p>The design and orientation of the child care centre maximises northern, eastern and western solar access.</p> <p>A detailed solar access assessment confirmed that the proposed development satisfies the controls for solar access to the living areas and private open space of surrounding residential properties.</p>	Yes

	(b) A minimum 50% of the required private open space for a dwelling that adjoins a development receives at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.		
4.5-4.7 – Building design	<p>Child care centres with more than 29 children in Zone R2 Low Density Residential must locate in a purpose-built centre. The external building design must give the appearance of a dwelling house.</p> <p>Development for the purpose of new buildings must incorporate architectural elements to articulate the building form and avoid large expanses of blank walls. Architectural elements may include but not be limited to:</p> <p>(a) Defining the base, middle or top of a building using different materials and colours.</p> <p>(b) Incorporating horizontal or vertical elements such as recessed walls or banding.</p> <p>(c) Incorporating recessed or partially recessed balconies within the building wall.</p> <p>(d) Defining the window openings, fenestration, balustrade design, building entrances, and doors.</p> <p>(e) Using sun shading devices.</p>	<p>The scale of the proposed child centre is such that it will appropriately complement the existing and future residential character of the surrounding area. The development gives the appearance of a dwelling house when viewed from Lambeth Street, as well as the surrounding properties.</p> <p>The design and architectural treatment of the proposed development is appropriate and is considered to respond to and integrate with the existing streetscape, making use of gable features as seen on 71 Lambeth Street while also acknowledging the contemporary design of 65 Lambeth Street. The materials and finishes create visual interest while the façade has articulation and depth.</p> <p>The proposed development incorporates a defined front building entrance and pedestrian link to Lambeth Street.</p>	Yes

	<p>(f) Any other architectural feature to the satisfaction of Council.</p> <p>Development for the purpose of new buildings must provide active frontages to the streets and must orientate buildings and pedestrian entrances to the streets.</p>		
4.9 – Roof design	<p>Development for the purpose of new buildings must have roof designs that:</p> <p>(a) unify separate or attached buildings with a contemporary architectural appearance; and</p> <p>(b) combine good quality materials and finishes.</p>	The child care centre roof is a suitable design and an acceptable finish.	Yes
4.10-4.12 – Front fences	<p>The maximum fence height for front fences is 1.8 metres.</p> <p>The external appearance of front fences along the front boundary of allotments must ensure:</p> <p>(a) the section of the front fence that comprises solid construction (not including pillars) does not exceed a fence height of 1 metre above ground level (existing); and</p> <p>(b) the remaining height of the front fence comprises open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.</p> <p>Council does not allow the following types of front fences:</p> <p>(a) chain wire, metal sheeting, brushwood, and electric fences; and</p> <p>(b) noise attenuation walls.</p>	The proposed front fence is of an open style design and comprises a mixture of masonry and timber infill pickets.	Yes

5.1-5.3 – Acoustic privacy	<p>Air conditioning, mechanical ventilation or any other continuous noise source must not exceed the ambient level at any specified boundary by more than 5dB(A).</p> <p>The location and design of child care centres must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.</p> <p>The maximum height for noise attenuation walls and fences along the boundary of an allotment is 2 metres.</p>	<p>The acoustic report was reviewed by Council's Environmental Health Unit and is considered acceptable subject to compliance with the recommendations included in the report.</p> <p>The location, siting, design and acoustic treatment of the development was reviewed and is not considered to result in adverse impacts on the residential amenity of adjoining land.</p>	Yes
5.4 – Hours of operation	Council may limit the hours of operation of child care centres to 7.00am to 6.00pm Monday to Friday.	7.00am to 6.00pm Monday to Friday.	Yes
5.5 – Management plans	Council must require the operator of a child care centre in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential to organise and chair a Neighbourhood Liaison Committee. The purpose of the Committee is for the operator and neighbours to resolve any issues, such as traffic and noise, arising from the operation of the child care centre.	This has been recommended as a condition of consent.	Yes
6.1 and 6.2 – Outdoor play areas	<p>The location of outdoor play areas must allow supervision from within the centre.</p> <p>Outdoor play areas must:</p> <p>(a) locate on a land gradient that is predominantly flat;</p> <p>(b) provide access to shade, particularly between 9.30am and 3.00pm during summer months. This may be in the form of a shade</p>	<p>The outdoor play area is appropriately located and is designed in a manner that allows supervision from various locations within the child care centre.</p> <p>The gradient of the covered outdoor play area is predominantly flat.</p>	Yes

	<p>structure or natural shade from trees; and</p> <p>(c) consider the surface treatment in accordance with best practice guidelines in early childhood environments.</p>	<p>The ground floor outdoor play area provides for sufficient area that is shaded from the sun. A condition of consent is recommended to be imposed requiring additional shading devices be installed for the first floor outdoor play area, with the devices required to not project above the approved roof or wall lines.</p> <p>Appropriate surface treatments are proposed within the outdoor play area, including rubberised soft fall, sand, timber and other suitable materials.</p>	
6.4 Landscaping –	<p>Development applications must submit a detailed landscape plan prepared by a qualified landscape architect.</p> <p>The landscaping of outdoor play areas must not include the species listed in Appendix 2.</p>	<p>A detailed landscape plan, prepared by a qualified landscape architect, was submitted with the application.</p> <p>The landscape plan does not include any of the 'unsuitable plant species' listed in Appendix 2.</p>	Yes
6.6-6.9 Retaining walls –	<p>Outdoor play areas must avoid retaining walls where possible.</p> <p>The maximum height for retaining walls in outdoor play areas is 400mm above natural ground level, and must incorporate a safety fence or the like to prevent accidental falls.</p> <p>Retaining walls must locate agricultural drainage lines:</p> <p>(a) behind the base of the wall and at the foot of the wall; and</p> <p>(b) the drainage lines must connect with the proposed stormwater drainage system of the development.</p>	<p>There are no retaining walls proposed within the outdoor play area.</p> <p>A condition of consent has been imposed requiring all retaining walls proposed adjacent to the boundary of the site to be of masonry construction.</p>	Yes

	Retaining walls on the boundary of an allotment must be masonry construction.		
7.1-7.5 – Safety and security	<p>The front door and at least one window to buildings must face the street to enable natural surveillance.</p> <p>The street number of buildings must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.</p> <p>Child care centres must separate the car park and any outdoor play area with a safety fence and gates.</p> <p>Child care centres with more than 15 children must erect (at the expense of the applicant) an unscaleable 1.8 metre high lapped timber fence or the like along the side and rear boundaries of the allotment.</p> <p>Child care centres must provide:</p> <ul style="list-style-type: none"> (a) safe access for children and people with disabilities; and (b) fire protection and evacuation requirements. 	<p>The front door and several windows on the ground and first floors of the child care centre face the street.</p> <p>A condition of consent has been imposed in relation to the design and location of the street number.</p> <p>The outdoor play area is located away from car parking and driveways.</p> <p>A condition of consent has been recommended in relation to replacement side and rear boundary fencing.</p> <p>The child care centre has been suitability designed with respect to accessibility, fire protection and evacuation requirements.</p>	Yes
8.1 – Food premises	<p>The design, construction, and operation of kitchens and food premises must comply with:</p> <ul style="list-style-type: none"> (a) Food Act 2003; (b) Food Regulation 2010; (c) FSANZ Food Standards Code; and (d) AS 4674:2004 Design, Construction, and Fitout of Food Premises. 	<p>Some of the legislation specified in this control is out of date. The proposed development was reviewed by Council's Environmental Health Officer with respect to the design, construction and operation of the kitchen and a condition of consent has been imposed requiring compliance with the applicable and current legislation.</p>	Yes

8.2 – Site facilities	Child care centres must ensure the following facilities are not visible to the street or any nearby public open spaces: (a) waste storage areas; (b) storage of goods and materials; and (c) any clothes drying areas.	The waste storage area is provided in the front setback along the southern boundary however has been designed as an enclosed cabinet, ensuring that it is not visible from the street.	Yes
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Clause 3.3 - Storey limit

Clause 3.3 of Part B6 of BDCP 2015 restricts child care centres to a maximum of 2 storeys. The subject application proposes a portion of the building to be 3 storeys however this is only due to a small portion of the basement car park projecting more than 1m above NGL at the front of the site as seen below in red:

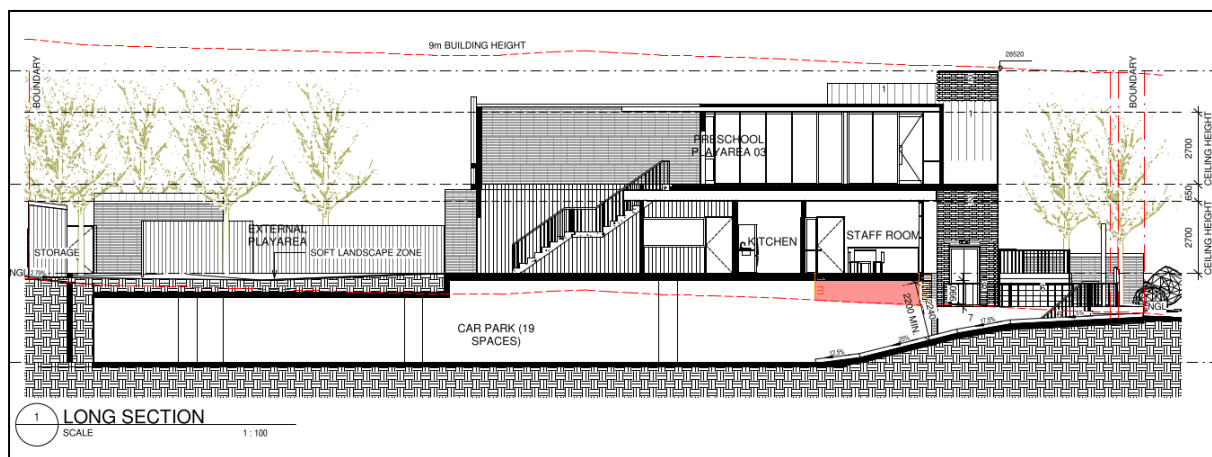


Figure 2: Long Section

Various options were explored by the applicant to resolve the above non-compliance, such as reducing the basement level however this resulted in the need for a steeper ramp which has safety concerns, and a longer ramp which resulted in a number of car spaces needing to be stacked. A review of the front elevation and streetscape diagram shows that the development does not present as a 3 storey development, nor does the development receive any additional yield of GFA as a result of the non-compliance.



Figure 3: Streetscape Elevation 1



Figure 4: Streetscape Elevation 2

Taking into consideration the above, it is considered that the proposed variation to Clause 3.3 of Part B6 of BDCP 2015 is worthy of support.

Part B11 – Tree Preservation Order

The objectives of Part B11 of BDCP 2015 are to sustainably manage tree resources to improve visual, physical and environmental amenity, promote the use of professional standards and best practices in tree management, and to list controls for the pruning, removal and replacement of trees.

As addressed above in the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 assessment, the proposed tree removal and replacement is considered worthy of support.

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

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

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

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

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

The proposed development is not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, the proposed development addresses all applicable development standards and controls. As such, it is considered that the impact of the proposed development on the locality is acceptable.

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

The subject site is considered suitable for the proposed development. The proposed development responds to the applicable development standards and controls contained in *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, the *Child Care Planning Guideline*, BLEP 2015 and BDCP 2015. The proposed development results in an appropriate built form for the site, which is consistent with the existing and desired future character of the area, and the assessment of the application has not identified any unreasonable or adverse impacts on the surrounding residential properties or the broader locality.

Submissions [section 4.15(1)(d)]

The application was advertised for a period of twenty one (21) days between 2 December 2020 and 13 January 2021 as required by the Canterbury Bankstown Community Participation Plan. Notification was extended over the Christmas / New Year period as required by Section 16, Schedule 1 of the EP&A Act 1979. Twenty two (22) submissions were received and are addressed below.

Submission: Number of children

Response: When the development application was lodged, the applicant proposed 90 children in the childcare centre. Council's assessment concluded that this number could not be supported, as the building and facilities required for 90 children could not be provided on site while complying with the relevant development standards and development controls. As a result of this, the applicant reduced the number of children to 76 and made a number of design changes, which are considered worthy of support, citing compliance with the relevant development standards and development controls.

Submission: Size of building

Response: The initial assessment of the proposed development found that the centre contained more floor area than was permitted on the site. As a result, the size of the building was reduced by 118sqm.

Submission: Child Care Centres operating in the immediate area

Response: Clause 25(2)(a) of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* allows for childcare centres to be located at any distance from an existing or proposed early education and care facility. *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* and the *Bankstown Local Environmental Plan 2015* do not contain any provisions requiring the demand for a child care centre to be demonstrated and Clause 26(1)(b) of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* states that any such provision contained within a Development Control Plan is not to apply. As such, Council cannot refuse to grant development consent on the grounds that other child care centres operate within proximity of the site or any potential financial impacts that a new centre may have on an existing business.

Submission: Permissibility

Response: Centre-based child care facilities are permitted within the R2 Low Density Residential zone under the Bankstown Local Environmental Plan 2015.

Submission: Character

Response: The childcare planning guidelines provides an objective to ensure that the child care facility is compatible with the local character and surrounding streetscape. It is considered that the proposed facility is in keeping with both the low density residential scale of the existing neighbouring and surrounding building stock in addition to responding to the character and built form of the newer developments being introduced.

Submission: Car parking location

Response: Council has previously consented to child care centres with basement car parking. Given the context of the site, particularly its slope to the street, the provision of a basement car park is considered to be worthy of support.

Submission: Number of car parking spaces

Response: The Bankstown Development Control Plan 2015 requires the number of off-street car parking spaces be calculated based on the rate of one (1) car space per four (4) children. The proposed development complies with this rate.

Submission: Parking for prams and mobility issues

Response: Off street car parking is provided in the basement for individuals with mobility issues and prams. Lift access from the basement to the child care centre has been provided. Further, a condition of consent requires the re-construction of the existing footpath along the sites frontage to aid in access for individuals who choose walk to the centre.

Submission: Parking at centre and catching train

Response: Given the distance between the subject site and Panania Train station, it is highly unlikely that basement car park will be used by those who intend boarding a train at this station.

Submission: Traffic and parking statement

Response: The submitted parking and traffic statement was reviewed by Council's Traffic Management Team who analysed the methodology and information contained within the report. The findings of the report were considered to be accurate, and the information provided sufficient to determine the development application. The timing of the study is considered to be satisfactory for an accurate assessment of the proposal to be undertaken. While Lawler and Clifford Streets were not explicitly detailed in the submitted report, the extent of the traffic assessment was considered acceptable for the scale of this development. Although the traffic analysis was undertaken during the COVID-19 pandemic, on the date of the analysis (18 August 2020) Greater Sydney was not subject to any stay at home orders and the analysis is considered to be an accurate representation of the local traffic conditions.

Submission: Speeding / traffic calming

Response: Vehicles exceeding the sign posted speed limit is not a matter for consideration under this development application. Our assessment of the application found that there was no need to make any changes to the existing road conditions such as requiring traffic calming devices to be introduced as a result of this development.

Submission: Walking school students

Response: The proposed development provides the required sight line triangles stipulated in Figure 3.3 of AS2890.1:2004. As such, it is considered the proposed basement has been designed in a way that protects the safety of walking school students.

Submission: Supervised crossings

Response: There is no requirement for a supervised crossing to be provided for child care centres.

Submission: Sewer relocation

Response: The proposed sewer realignment/relocation requires consent from Sydney Water and not Canterbury Bankstown Council. As such, the specifics of the relocation are not a matter for consideration under this development application.

Submission: Stormwater

Response: The proposed stormwater plan has been assessed by Council's Development Engineer against the Bankstown Development Engineering Standards, with compliance being achieved. In order to aid in the capture of stormwater from hardstand surfaces, an On-Site Detention Basin has been provided.

Submission: Fencing

Response: The submitted acoustic report requires the replacement of boundary fences to ensure that the acoustic amenity of the adjoining property owners is protected. In the event that an adjoining property owner does not consent to the replacement fencing, the required fencing may be placed on the inside face of the existing fence, within the development site.

Submission: Acoustic amenity

Response: The submitted acoustic report was reviewed by Council's Environmental Health Officers who analysed the methodology, recorded data and recommendations. The report was considered to be satisfactory. The following conditions have been recommended to be included in a determination notice:

- *The acoustic report submitted in support of this application, prepared by The Acoustic Group titled 'Acoustical Assessment Proposed Child Care Centre, 67-69 Lambeth Street, Panania, reference number: 50.5424.R1A:MCC, dated 10 November 2020 and the recommendations stated in the conclusion of this report forms part of the development consent.*

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted and approved by Council prior to the issue of any Occupation Certificate.

- *Should a noise issue (relating to the development) not previously identified arise (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.*

Submission: Obstruction of waste collection due to illegal parking

Response: The potential for illegal car parking is outside of the scope of this development application.

Submission: Waste (smells)

Response: The following condition has been recommended to be included in a determination notice:

All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the Protection of the Environment Operations Act 1997. All waste generated shall be removed and disposed of by an authorised waste removal contractor.

Submission: Arboricultural statement

Response: The submitted arboricultural statement was referred to Council's Tree Management Team who analysed the findings, methodology and recommendations of the statement, as well as undertaking their own assessment of the existing vegetation on the site. The statement and the proposed tree removal were considered worthy of support.

Submission: Landscape plan

Response: The submitted landscape plan has been assessed and is considered to be worthy of support.

Submission: Tree planting (fruit trees, location)

Response: The proposed location of tree planting and the species is considered to be acceptable and worthy of support.

Submission: Solar access

Response: The proposed development has been assessed against the relevant solar access requirements of the Bankstown Development Control Plan 2015 – Part B6 which provide as follows:

4.3 The design of buildings must ensure that:

- (a) At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.*
- (b) A minimum 50% of the required private open space for a dwelling that adjoins a development receives at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.*

Compliance with the above was demonstrated during the assessment of the proposed development.

Submission: Revision of reports

Response: The relevant reports that were impacted as a result of the changes to the development Council required during the assessment of the proposed development have been revised and updated where necessary.

Submission: Extent, timing and speed of advertisement

Response: The Canterbury Bankstown Community Participation Plan (CBCPP) contains the requirements for the advertisement of development applications. This application was advertised as required by the CBCPP. The subject application was also subject to an extended notification timeframe over the Christmas / New Year period as required by Section 16, Schedule 1 of the EP&A Act 1979.

Submission: Dust

Response: A condition of consent has been recommended that requires the preparation of a sediment and erosion control plan prior to the issue of a construction certificate.

Submission: Air pollution

Response: The proposed development is not expected to give rise to air pollution. Notwithstanding this, the following conditions have been recommended to be included in a determination notice:

- *Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.*
- *The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.*

Submission: Upgraded kerb and guttering

Response: The kerb and guttering that is affected by the proposed development along the street frontage of the site will be required to be replaced.

Submission: Number of people on site

Response: The maximum number of people on the site is consistent with the relevant controls that apply to the development.

Submission: Supporting infrastructure (new bridges widening roads)

Response: It is not considered that the subject development application will result in an increase in traffic to the local area that requires infrastructure to be upgraded such as roads and bridges.

Submission: Basement excavation

Response: The proposed basement is consistent with the controls that relate to basement design in the Bankstown Development Control Plan 2015. A dilapidation report condition has been recommended to be placed on a determination notice which provides as follows:

A dilapidation survey must be undertaken by a professional engineer for all of the adjoining properties and is to detail the physical condition of all structures (including driveways, retaining walls, and other outdoor structures such as carports, pergolas, awnings, pools, fencing etc), both internally and externally, including such elements as walls, ceilings, roofs, structural members and other similar elements. The dilapidation survey must consider structural as well as hydrological and geotechnical factors likely to arise from the development. It must be submitted to the Principal Certifier and all costs associated with preparing the survey must be borne by the person having the benefit of this Determination Notice. This survey must be provided in hard copy to the relevant adjoining property owners prior to the issue of a Construction Certificate.

Submission: Driveway location

Response: The proposed location of the driveway has been reviewed by Council's Traffic Management Team and Development Engineers. The location was considered worthy of support.

Submission: Visual privacy

Response: A condition that requires windows on the north and south elevations be fixed and obscured to a minimum height of 1.5m above the finished floor level has been recommended to be placed on a determination notice.

Submission: Heat

Response: While there are no specific controls that relate to the urban heat island effect and the impact that the proposed development may have on this, the development complies with the required landscaping considerations, with the recommended conditions of consent containing the requirement for the planting of canopy trees.

Submission: Construction hours

Response: The standard hours for construction across residential areas of Canterbury Bankstown Council has been recommended as a condition of consent for the consideration of the Canterbury Bankstown Local Planning Panel. The hours are 7.00 am and 5.00 pm on Monday to Saturday. No construction is to be carried out at any time on a Sunday or a public holiday.

Submission: Demolition

Response: The following demolition condition has been recommended to be placed on a development consent.

Written notice must be given to adjoining residents seven days prior to the commencement of demolition advising of the commencement date.

Written notice is to be given to Council for inspection prior to demolition. Such written notice is to include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolisher.

The following inspections must be undertaken by Council:

- i. A pre-commencement demolition inspection when all site works required as part of this consent are installed on the site and prior to demolition work commencing; and*
- ii. A final demolition inspection when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.*

*Payment of an inspection fee at Council's current rate will be required prior to inspection. Council requires 48 hours notice to carryout inspection.
Prior to demolition work, a sign must be erected at the front of the property with the demolishers name, licence number and contact phone number.*

Demolition work may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no demolition work is to be carried out at any time on a Sunday or a public holiday.

All demolition work must be carried out in accordance with Australian Standard 2601-2001 - The demolition of structures.

Where asbestos containing materials are to be removed, demolition is to be carried out by contractors who have a current SafeWork NSW licence in asbestos removal.

An asbestos clearance certificate issued under the Work Health and Safety Act 2011 must be submitted to Council after the completion of demolition work.

Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority.

Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

A copy of the final demolition inspection report is to be submitted to the principal certifier prior to the commencement of building work.

Submission: Use of the centre by individuals not local to the area

Response: There is no requirement for the child care centre to only service members of the local area.

Submission Building height

Response: The proposed building height complies with the maximum height of buildings permitted under the Bankstown Local Environmental Plan 2015 (9m).

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

Taking into consideration the details of this report, it is considered that the applicant has demonstrated that the proposed development is aligned with the public interest.

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*. The assessment above has found that the proposed development is worthy of support, subject to the conditions attached to this report.

RECOMMENDATION

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

1. CONDITIONS OF CONSENT

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Plan Name	Date	Revision	Prepared By
DA-101	Existing/Demolition Plan	14 September 2021	E	Kaunitz Yeung Architecture
DA-103	Site Plan			
DA-200	Proposed Ground Floor Plan			
DA-201	Proposed First Floor Plan			
DA-202	Proposed Basement Plan			
DA-203	Proposed Roof Plan			
DA-252	Fence Plan			
DA-400	Proposed Elevations			
DA-401	Proposed Sections			
DA-500	External Finishes Schedule			

Document No.	Document Name	Date	Revision	Prepared By
-	Panania Montessori Academy Plan of Management	15 April 2021	V2.0	Daniella Assaf
51.5424.R1B:MCC	Acoustical Assessment Proposed Child Care Centre 67-69 Lambeth Street, Panania	14 April 2021	-	The Acoustic Group
-	Waste Management Plan	November 2020	-	Dickens Solutions
200376.01FB	Traffic and Parking Impact Assessment	9 November 2020	B	McLaren Traffic Engineering and Road Safety Consultants
-	Statement of Environmental Effects for Development Application	November 2020	Final	SJB Planning
G20232-1	Geotechnical Investigation Report	1 July 2020	0	Geotechnical Consultants Australia
E2080-1	Detailed Site Investigation	8 November 2020	2	
20/0342	Building Code of Australia 2019 Amendment 1 Seemed to Satisfy Assessment	10 November 2020	-	Dix Gardner Group Pty Ltd
-	Arboricultural Impact Assessment	1 September 2020	-	Bradshaw Consulting Arborists
20/0342	Access Assessment Report	10 November 2020	4	Dix Gardner Group Pty Ltd

Note: In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

- 1.1. Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.
 - a. The southern and northern elevation windows marked in red on the approved plans shall be amended so as they are fixed (in-operable) and obscured via glazing to a minimum height of 1.5m above the finished floor level. All construction certificate materials shall be consistent with this requirement.
 - b. Shading devices for the first floor outdoor play area shall be incorporated as part of the construction certificate plans. Shading devices shall not project above the approved roof or wall line so as they are not visible from the adjoining properties. Shading devices must not be permanent roofed structures enclosing the first floor outdoor play space, with the area remaining open and not enclosed.
 - c. Sight line triangles to pedestrians shall be shown on the site plan at the driveway exit of the development in accordance with AS 2890.1-2004 to comply with Fig 3.3. The design of fencing and landscaping shall be considered in this regard and ensure the retention of the sight lines required. The handrail of the stairs shall be designed so as to not obstruct the sight lines. The Construction Certificate plans shall reflect this requirement.
- 1.2. The acoustic report submitted in support of this application, prepared by The Acoustic Group titled '*Acoustical Assessment Proposed Child Care Centre, 67-69 Lambeth Street, Panania*', reference number: 50.5424.R1B:MCC, dated 14 April 2021 and the recommendations stated in the conclusion of this report forms part of the development consent.
- 1.3. The Detailed Site Investigation report submitted in support of this application prepared by Geotechnical Consultants Australia Pty Ltd titled, "*Detailed Site Investigation, Proposed Development at: 67-69 Lambeth Street, Panania NSW 2213, Lot 3-4 /- / DP14704*", reference: E2080-1-Rev B, dated 8 November 2020 and the recommendations in section 10 of this report forms part of the development consent.

NOTE: This report states compliance with *Guidelines for Consultants Reporting on Contaminated Sites* (2011) which has been replaced with *Guidelines for Consultants Reporting on Contaminated Land* (2020). The Detailed Site Investigation report submitted in support of this application must be updated to reflect this and submitted to Council prior to the issue of a construction certificate.

- 1.4. The food preparation area (kitchen) within the childcare centre must be designed, constructed and operated in accordance with the requirements of:

- (a) The *NSW Food Act 2003* and *Food Regulation 2015*;
- (b) Australia New Zealand Food Standards Code;
- (c) Australian Standard 4674-2004;
- (d) Australian Standard 1668 Part 1; and
- (e) Australian Standard 1668 Part 2.

- 1.5. A separate application shall be submitted to Council prior to the erection of any additional signage unless the proposed signage is "exempt development" in accordance with relevant legislation.

2. Conditions to be Satisfied Before the Issue of a Construction Certificate.

- 2.1. Development Contributions of \$32,107.46 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Bankstown Development Contributions Plan 2019-and Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services.

Indexing of the contribution amount to be paid: The development contribution payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have occurred since the "Consent to operate from date" which appears on the front page of this Determination Notice.

No construction certificate is to be issued and no construction is to commence until payment of development contributions. The contribution must be paid to Council before the issue of any Construction Certificate. Construction of the development may NOT commence until the development contributions are paid.

A copy of the development contributions plan is available for inspection on Council's website and at Council's Administration offices in Bankstown and Campsie.

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

The landscape plan shall incorporate the following:

- a) 3 x replacement tree/s known to attain a minimum height of 10 metres at maturity in the front setback.

- b) 3 x replacement tree/s known to attain a minimum height of 15 metres at maturity in the rear yard;
- Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order.
 - Tree species used shall be locally occurring indigenous tree species – refer to Section 14 and Appendix C – Locally Occurring Indigenous Tree Species, in the Bankstown City Council Tree Management Manual;]
 - The tree/s shall have a container size not less than 100 litres and shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use
 - The tree/s shall be planted no closer than 3.5metres from the wall of any approved dwelling on the property.
 - The tree/s shall be planted so that future growth is not in conflict with overhead electricity wires or boundary fences.
 - The tree/s shall be maintained for the life of the development.
- 2.3. Approval in accordance with Council’s Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.
- 2.4. A tree root mapping report by an AQF level 5 Consulting Arborist must be provided to demonstrate that the council street tree will remain viable with the encroachment from the proposed crossover. The recommendations of this report shall be adopted in the Construction Certificate documentation.
- 2.5. Before the issue of a construction certificate or, the person having benefit of this Determination Notice is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- a. Council’s development control plan,
 - b. the guidelines set out in the NSW Department of Housing manual ‘Managing Urban Stormwater: Soils and Construction Certificate’ (the Blue Book), and
 - c. the ‘Do it Right On-Site, Soil and Water Management for the Construction Industry’ (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The person having benefit of this Determination Notice must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

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

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

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

- 2.7. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.8. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](http://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 2.9. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 2.10. The landscape plan shall include the provision for the replacement of all boundary fencing. A new fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material, and shall be designed in accordance with the recommendations contained in the Acoustic Report, prepared by *The Acoustic Group*, titled '*Acoustical Assessment Proposed Child Care Centre 67-69 Lambeth Street, Panania*', dated 14 April 2021, Reference No. 51.5424.R1B:MCC. In the event that an adjoining property owner does not consent to the replacement of the existing dividing fence, the fence may be placed on the inside face of the existing fence line, within the subject property. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 2.11. The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a) Heavy duty VFC of maximum width of 6.0metres at the property boundary.
 - b) Foot path reconstruction fronting the subject property.

- c) Stormwater connection to Council kerb and gutter
- d) Removal of all redundant driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
- e) Repair of any damage to the public road including the footway occurring during building works, and
- f) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

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

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

This plan shall include details of the following:

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

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

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

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

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

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

This plan shall include details of the following:

- a. Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b. Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c. Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d. Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.

- e. Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

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

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

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

- m. Demolition is proposed.
- n. Subdivision is proposed.
- o. A Swimming pool is proposed.

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

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

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

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

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

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

- 2.15. A Trade Waste Agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Wastewater treatment equipment is to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund. All wastewater treatment devices shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the Protection of the Environment Operations Act 1997.
- 2.16. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the Principal Certifier prior to the issue of the construction certificate.
 - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.17. 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 a construction certificate.
- 2.18. Stormwater drainage from the development shall be designed so as to comply with Council's Bankstown Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 that it complies with Council's Bankstown Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

Sheet number	Revision	Date	Prepared By
D00	B	19.08.2021	Smart Structures Australia
D01	B	19.08.2021	Smart Structures Australia
D02	B	19.08.2021	Smart Structures Australia

D04	B	19.08.2021	Smart Structures Australia
D05	B	19.08.2021	Smart Structures Australia
D06	B	19.08.2021	Smart Structures Australia
D07	B	19.08.2021	Smart Structures Australia

The above listed stormwater management plans shall be amended to ensure the following:

- The OSD tank overflow must have a 0.3m freeboard from habitable living areas.
- Surface areas bypassing OSD shall not exceed 25% of the site area.
- All pipes proposed within the easement shall provide for 2.2m head clearance for the basement.

- 2.19. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 2.20. The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 2.21. A heavy duty speed hump shall be in the proposed driveway exit side only and be at 1m offset from the property boundary.
- 2.22. A clear sign shall be provided at entry of the carpark basement level to direct visitors to the pick up and drop off parking spaces. Pick up and drop of parking spaces shall be clearly denoted and marked.
- 2.23. The intersection of ramps with parking aisles and other intersection areas have been designed for use by one vehicle at a time. Appropriate traffic management measures, including redesign if needed, is required to prioritise one-way traffic movement at these intersection areas. The design shall be completed and certified by a suitably qualified professional engineer
- 2.24. For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile 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. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 2.25. A dilapidation survey must be undertaken by a professional engineer for all of the adjoining properties and is to detail the physical condition of all structures (including driveways, retaining walls, and other outdoor structures such as carports, pergolas, awnings, pools, fencing etc), both internally and externally, including such elements as walls, ceilings, roofs, structural members and other similar elements. The dilapidation survey must consider structural as well as hydrological and geotechnical factors likely to arise from the development. It must be submitted to the Principal Certifier and all costs associated with preparing the survey must be borne by the person having the benefit of this Determination Notice. This survey must be provided in hard copy to the relevant adjoining property owners prior to the issue of a Construction Certificate.
- 2.26. Prior to the issue of a Construction Certificate, the developer is to apply to the Canterbury Bankstown Traffic Committee, and to the satisfaction of Council's Traffic Engineer, for a timed parking zone to be provided along the property frontage at the cost of the developer.
- 2.27. The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 2.28. The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 2.29. Any retaining walls required for the subject development, shall be designed on accordance with clauses 6.7, 6.8 & 6.9 of the BDCP 2015 – Part B6.
- 2.30. The approved waste storage area in the front setback of the development shall not be altered, enlarged relocated without separate approval from Council. The frequency of waste collection shall ensure that waste does not overflow from the bins within the waste storage area.
- 2.31. A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.
<https://www.cbccity.nsw.gov.au/council/forms/waste-recycling>

3. Conditions to be Satisfied Before Construction.

- 3.1. A construction certificate is required for the erection of a building in accordance with this Determination Notice.

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

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,
 - b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
 - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
 - d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
 - ii. notified the principal certifier of the appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
 - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.
- 3.3. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 3.4. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.

- 3.5. 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.
- 3.6. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.7. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.
- 3.8. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

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

- 3.9. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- showing the name, address and telephone number of the principal certifier for the work, and
 - 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
 - stating that unauthorised entry to the work site is prohibited.

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

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

3.10. Approval is granted for the removal of the following trees:

- Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;
- Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;
- Any tree species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order;
- All trees identified for removal as per Landscape Plans by Zenith Landscape Designs, Sheets 1 & 2, Drawing No.18-3854 L01, Rev A, dated 1/4/2019;
- Any of the following tree/s:

Callistemon citrinus (Crimson Bottlebrush)	Rear yard
Araucaria heterophylla (Norfolk Island Pine)	Rear yard

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

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

3.11. Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type “A” inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a construction certificate.

3.12. Written notice must be given to adjoining residents seven (7) days prior to the commencement of demolition advising of the commencement date.

Written notice is to be given to Council for inspection prior to demolition. Such written notice is to include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolisher.

The following inspections must be undertaken by Council:

- (i) A pre-commencement demolition inspection when all site works required as part of this consent are installed on the site and prior to demolition work commencing; and
- (ii) A final demolition inspection when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.

Payment of an inspection fee at Council's current rate will be required prior to inspection. Council requires 48 hours notice to carryout inspection.

Prior to demolition work, a sign must be erected at the front of the property with the demolishers name, licence number and contact phone number.

Demolition work may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no demolition work is to be carried out at any time on a Sunday or a public holiday.

All demolition work must be carried out in accordance with Australian Standard 2601-2001 - The demolition of structures.

Where asbestos containing materials are to be removed, demolition is to be carried out by contractors who have a current SafeWork NSW licence in asbestos removal.

An asbestos clearance certificate issued under the Work Health and Safety Act 2011 must be submitted to Council after the completion of demolition work.

Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority.

Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

A copy of the final demolition inspection report is to be submitted to the principal certifier prior to the commencement of building work.

4. Conditions to be Satisfied During Construction.

- 4.1. Building work must be carried out in accordance with the requirements of the BCA.
- 4.2. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
 - a. 7.00 am and 5.00 pm on Monday to Saturday.

- b. No construction is to be carried out at any time on a Sunday or a public holiday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

- 4.3. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
 - a. All footings/ foundations
 - b. At other stages of construction – any marks that are required by the principal certifier.
- 4.4. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown 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.
- 4.5. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
 - a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
 - b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- 4.6. 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.

- 4.7. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
- a. Protect and support the building, structure or work from possible damage from the excavation, and
 - b. Where necessary, underpin the building, structure or work to prevent any such damage.

This 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.

- 4.8. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.9. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 4.10. 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.

- 4.11. 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.

- 4.12. 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.

5. Conditions to be Satisfied Before Occupation.

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. An Occupation Certificate for the completed development must not be issued until all conditions relating to demolition, building have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.3. Nineteen (19) off street car spaces being provided in accordance with the submitted plans. This shall comprise of eight (8) spaces for staff and eleven (11) spaces for visitors. One (1) of the above car parking spaces is to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 5.4. An Emergency Response Management Plan shall be prepared and submitted to Principal Certifiers satisfaction. The Plan shall include the following:
 - a. List of chemicals and maximum quantities to be stored at the site;
 - b. Identification of potentially hazardous situations;
 - c. Procedure for incident reporting;
 - d. Details of spill stations and signage;
 - e. Containment and clean-up facilities and procedures; and
 - f. The roles of all staff in the plan and details of staff training.
- 5.5. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.
- 5.6. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 5.7. Prior to occupation, a confined space sign and an OSD sign shall be installed on the outside of the OSD tank.
- 5.8. Prior to occupation, the basement car parking shall be line marked and sign posted in accordance with AS2890.:2004. The one-way carparking circulation shall have directional arrows line marked.

- 5.9. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier prior to the issue of an occupation certificate.
- 5.10. Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 5.11. The first floor outdoor play area is approved as open structures only and shall not be enclosed by any roof or similar obstruction. Compliance with this condition must be verified prior to the issue of an occupation certificate. This condition must be complied with for the life for the development, unless altered by Council under a separate consent.
- 5.12. Lighting must be provided to the entry of the child care centre, driveway and parking area to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 5.13. The premises must be readily identified from the street with the allocated house number. The street numbers must be made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building. Numbering of the development without Council's written approval is not permitted.
- 5.14. A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 5.15. 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.
- 5.16. The acoustic report submitted in support of this application, prepared by The Acoustic Group titled 'Acoustical Assessment Proposed Child Care Centre, 67-69 Lambeth Street, Panania, reference number: 50.5424.R1A:MCC, dated 10 November 2020 and the recommendations stated in the conclusion of this report forms part of the development consent.

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted and approved by Council prior to the issue of any Occupation Certificate.

- 5.17. Prior to the issue of any Occupation Certificate, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any Occupation Certificate.

- 5.18. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

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

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

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

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

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

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

Consolidation of the existing allotments must be registered by NSW Land Registry Services prior to the issue of an occupation certificate.

6. Conditions of Use.

- 6.1. Car parking spaces for nineteen (19) vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 6.2. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 6.3. The hours of operation of the use shall be limited to between 7:00am to 6:00pm Monday to Friday, and closed on public holidays.
- 6.4. As stated in the submitted Acoustic Report the outdoor play is restricted to a maximum use of 4 hours per day. The plan of management shall be amended to reflect this requirement.
- 6.5. Should a noise issue (relating to the development) not previously identified arise (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.
- 6.6. The child care centre is restricted to a maximum of 76 children at any one time.
- 6.7. 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.
- 6.8. Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

- 6.9. The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 6.10. All loading and unloading of goods shall take place within the site or from the adjoining service lane in a manner that does not interfere with parking areas, driveways or landscaping.
- 6.11. There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 6.12. All waste materials associated with the use shall be stored in containers located either within the building.
- 6.13. The premises is required to be registered with Council so that regular inspections can be carried out to ensure food safety standards are maintained. A business registration form is available on Council's website which must be completed and submitted to Council prior to the operations commencing
- 6.14. Trading of the Child Care Centre must not commence until a final inspection has been carried out by Council's Environmental Health Officer and ALL conditions of consent have been complied with.
- 6.15. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated shall be removed and disposed of by an authorised waste removal contractor.
- 6.16. No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 6.17. Identification number/s are to be conspicuously displayed at the front of the premises.
- 6.18. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.

- 6.19. The operator must organise and chair a Neighbourhood Liaison Committee in accordance with the requirements of Clause 5.5, Part B6 of the Bankstown Development Control Plan 2015. The Neighbourhood Liaison Committee must be formed within six months of the premises commencing operation and the meeting minutes from each meeting must be forwarded to the Council before the following meeting.
- 6.20. Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrance and exits, and the ground floor area of the premises. All CCTV cameras shall have the capacity to store footage for a minimum of 21 days.
- 6.21. The child care centre shall operate in accordance with the Plan of Management prepared by Daniella Assaf, referenced in condition 1 of this determination notice, unless amended by a condition of this determination notice.
- 6.22. All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal. You must be able to show your waste collection contract if it is requested by a Council Enforcement Officer.
- 6.23. No waste storage containers are to be located or placed outside the approved waste storage area at any time expect for collection purposes.
- 6.24. The child care centre shall be operated in accordance with the recommendations contained in the Acoustic Group titled '*Acoustical Assessment Proposed Child Care Centre, 67-69 Lambeth Street, Panania*', reference number: 50.5424.R1B:MCC, dated 14 April 2021.

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