



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

15 December 2021 - 6.00pm

ORDER OF BUSINESS

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

DARANI / BANKSTOWN WARD

- 1 DA-975/2020 - 493-497 Chapel Road, Bankstown**
Demolition of existing structures and construction of a four storey boarding house with 103 boarding rooms and basement car parking 3
- 2 DA-867/2020 – 76 & 76A Brancourt Avenue, Yagoona**
Demolition of existing building, construction of a three-storey boarding house with 33 rooms and basement car parking 63

BURA / BASS HILL WARD

- 3 DA-509/2021 – 2A Johnston Road, Bass Hill**
Erection and use of temporary structures for the purposes of a circus (showtimes from 18 February to 7 March 2022), temporary employee accommodation and associated commercial purposes 119

BUDJAR / CANTERBURY WARD

- 4 Planning Proposal for 445-459 Canterbury Road, Campsie (RZ-4/2020) 137**

Canterbury Bankstown Local Planning Panel - 15 December 2021

ITEM 1	DA-975/2020 - 493-497 Chapel Road, Bankstown Demolition of existing structures and construction of a four storey boarding house with 103 boarding rooms and basement car parking
FILE	DA-975/2020 - Darani / Bankstown
ZONING	R4 High Density Residential
DATE OF LODGEMENT	4 November 2020
APPLICANT	Kalicon Development Pty Ltd
OWNERS	Trik Group Holding Pty Ltd
ESTIMATED VALUE	\$13,854,157.00
AUTHOR	Planning

REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel ('the Panel') in accordance with Schedule 2 of the Ministerial Direction "Local Planning Panel Directions – Development Applications" issued under section 9.1 of the *Environmental Planning and Assessment Act, 1979*. The subject application is defined as a *contentious development* being one which has received ten (10) by way of objection.

Development Application No. DA-975/2020 proposes the Construction of a four-storey boarding house development comprising of one hundred and three boarding rooms with basement car parking and associated site works and landscaping.

DA-975/2020 has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against State Environmental Planning Policy 55 – Remediation of Land (SEPP 55), State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX), State Environmental Planning Policy (Affordable Rental Housing) 2009, 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 (BLEP 2015), Draft Canterbury Bankstown Local Environmental Plan 2020, Draft Housing SEPP 2021 and Bankstown Development Control Plan 2015 (BDCP 2015).

The application is generally compliant, however proposes a variation to the building height standard contained in the Bankstown Local Environmental Plan 2015 and setback control contained in Bankstown Development Control Plan 2015. The assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

The application was advertised for a period of 21 days. A total of ten (10) separate submissions were received during this period, which raise concerns relating to parking, traffic, suitability of the development in the locality, solar access and security. The concerns raised in the submissions have been addressed in this report and do not warrant refusal or further modification of the development.

Despite the non-compliances it is considered that the development application is an appropriate outcome in the context of the surrounding locality and has been recommended for approval.

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-975/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject sites are known as 493 and 497 Chapel Road, Bankstown and consists of two allotments identified as Lot 40 Sec A in DP 7058 and Lot 1 in DP 721388. The site has a combined area of 1890.47m² and frontage of 33.525m to Chapel Road with a fall of approximately 3m from the front (north-western) boundary to the rear (south-eastern) boundary. The land also slopes from the sites north eastern boundary to its south western boundary.

The site is zoned R4 High Density Residential and is located approximately 800m to the north of Bankstown Train Station and within 700m of Bankstown RSL. The surrounding development generally comprises of residential flat buildings to the north, south and east. On the opposite side of the street, the western side of Chapel Road, is Bankstown TAFE NSW.

The existing development on the site includes two residential cottages and ancillary structures. Existing vegetation on the site consists of eighteen (18) trees.

The context of the subject site is illustrated in the aerial photo below:



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

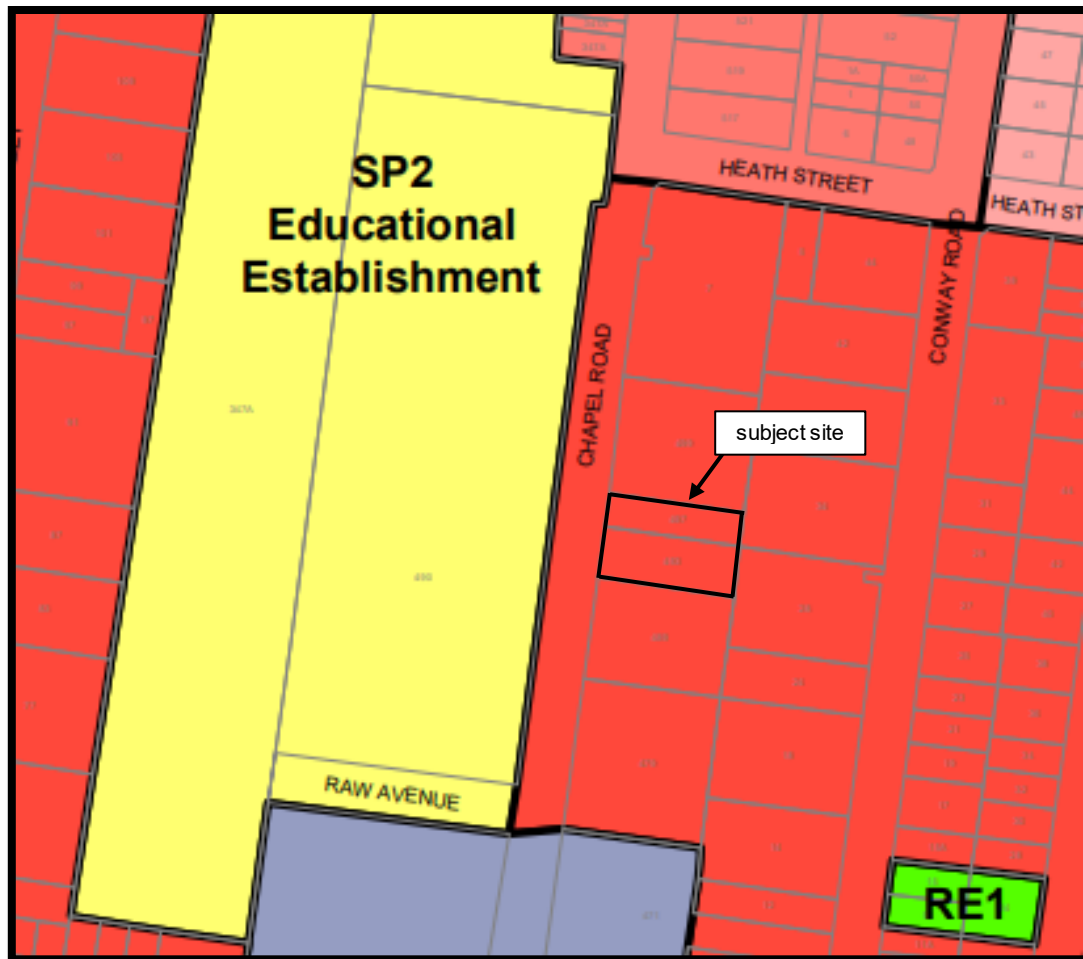


Figure 2: Zoning Map Excerpt BLEP 2015

PROPOSED DEVELOPMENT

The Development Application proposes the following:

- Demolition of existing structures.
- Removal of eighteen (18) on-site trees.
- Consolidation of two (2) existing allotments into one (1) allotment.
- Construction of a four (4) storey boarding house, comprising of one hundred and three (103) boarding rooms and basement car carparking.
- The one hundred and three (103) boarding rooms consist of 8 x single rooms; 95 x double rooms; which includes 1 x room for a boarding house manager and 6 x adaptable rooms.
- Two-level basement car park, providing parking for fifty-five (55) vehicles, including four (4) accessible spaces.
- New vehicular access at the south western corner of Chapel Road to the basement car park.
- Communal living rooms, communal open space, landscaping, office and garbage room.

SECTION 4.15 ASSESSMENT

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

Statutory Considerations

When determining a development application, the consent authority is to take into consideration the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*. In this regard, the following environmental planning instruments, draft environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment ('Deemed SEPP')
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020
- Bankstown Development Control Plan 2015 (BDCP 2015)

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

State Environmental Planning Policy No 55 - Remediation of Land

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

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

The development site has a history of residential uses and the development application seeks to use the site for residential purposes. There is no indication to suggest that that contamination is, or may be, present at the site. The subject land is not associated with any activities identified in Table 1 of the Managing Land Contamination Guidelines that may cause contamination.

As such, no further investigation with regards to contamination is considered warranted for this application. The requirements of SEPP 55 are therefore considered to be satisfied in this regard.

Conditions will be provided within the consent requiring the works to immediately cease should any unexpected contaminants be uncovered during site works or in the instance works cause the generation of odours, with the requirement of a Site Audit Report and Site Audit Statement undertaken by an environmental consultant if considered necessary.

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

The site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (being a deemed SEPP from 1 July 2009). The GMREP No 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications.

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

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)

The Bankstown Development Control Plan 2015, Part B1 Clause 10.29 states the following:

Council applies the design quality principals of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide to boarding houses. This includes buildings that are two storeys or less, or contain less than four dwellings.

Accordingly, the development has been assessed against the relevant provisions of the Apartment Design Guide.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies to residential flat buildings having 4 or more units and 3 or more storeys. Accordingly, SEPP 65 applies to the proposed development and an assessment against the Design Quality Principles contained in Schedule 1 and the Apartment Design Guide (ADG) has been undertaken.

The proposed development is consistent with the Design Quality Principles and responds appropriately to the site's context. Moreover, the application generally conforms to the design criteria and design guidance contained in the ADG.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Division 3 of SEPP (ARH) 2009 provides controls for boarding house developments. The table below provides an assessment of the development against these controls.

Control	Comment	Compliance
Clause 26 – Land to which Division Applies		
<p>This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones—</p> <ul style="list-style-type: none"> a) Zone R1 General Residential, b) Zone R2 Low Density Residential, c) Zone R3 Medium Density Residential, d) Zone R4 High Density Residential, e) Zone B1 Neighbourhood Centre, f) Zone B2 Local Centre, g) Zone B4 Mixed Use. 	<p>The site is zoned R4 High Density Residential.</p>	<p>Yes.</p>
Clause 29 – Standards that cannot be used to refuse		
<p>Floor Space Ratio A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than—</p> <ul style="list-style-type: none"> a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or b) If the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus— 	<p>Residential flat buildings are permissible within the zone, with a maximum permissible floor space ratio of 1:1. The SEPP (ARH) 2009 affords the proposal an additional 0.5:1 FSR, allowing a total maximum FSR of 1.5:1 for the development.</p> <p>The proposed FSR for the development is 1.45:1 which is compliant with the SEPP.</p>	<p>Yes.</p>

<p>i. 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>ii. 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>		
<p>Building Height The building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land</p>	The proposed total building height is not within the 13m height limit prescribed by BLEP 2015.	No. Refer to comments under BLEP 2015
<p>Landscaped Area The landscape treatment of the front setback area is to be compatible with the streetscape in which the building is located</p>	The landscaping has been designed in accordance with the principles contained within the DCP. It is considered the landscaping proposed is compatible with the streetscape established along the western side of the street.	Yes.
<p>Solar Access Where the development provides for one or more communal living rooms, at least one of those rooms is to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	Each communal living room receives the required three (3) hours solar access between 9am and 3pm in mid-winter.	Yes.
<p>Private Open Space One area of at least 20m² (with a minimum dimension of 3m) for lodgers & 8m² (with a minimum dimension of 2.5m) for the boarding house manager</p>	<p>A communal open space area of 100m² is provided for the lodgers on the ground floor, with a minimum dimension of 3m.</p> <p>The Managers room is provided an area with a minimum 2.5m dimension and a total area of 10.2m².</p>	Yes.
<p>Parking At least 0.5 spaces is provided for each boarding room, plus 1 space for each employee</p>	<p>The proposal includes 8 single rooms and 95 double rooms, including a manager's room:</p> <p>103 x 0.5 = 52 car parking spaces are required for the boarding rooms and 1 car space for staff.</p> <p>Total spaces required is fifty-three (53) car parking spaces.</p> <p>The proposal provides for 55 car parking spaces, including 4 accessible spaces.</p>	Yes.
<p>Accommodation size Minimum Gross Floor Area (GFA) (excluding private kitchen and</p>	The proposal includes 8 single rooms and 95 double rooms.	Yes.

bathrooms) is 12m ² for single lodging rooms and 16m ² in any other case	All single rooms achieve the minimum 12m ² and all double rooms achieve the minimum 16m ² . Conditions will be imposed to ensure compliance is maintained.	
A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	All rooms have separate kitchen and bathroom facilities contained within.	Yes.
Clause 30 – Standards for boarding houses		
Communal Living Room A boarding house that has 5 or more boarding rooms, at least one communal living room will be provided	A communal living room of 49m ² is provided on the first floor and a communal living room of 38.3m ² is provided on the third floor.	Yes.
Maximum GFA No boarding room is to have a gross floor area of more than 25m ² (excluding private kitchen and bathroom) per room.	No boarding room is greater than 25m ² (excluding private kitchen and bathroom).	Yes.
Maximum occupants No boarding room is to be occupied by more than 2 adult lodgers	One hundred and three (103) boarding rooms, consisting of 8x single rooms; 95x double rooms are proposed. A condition is recommended to be imposed stating that no boarding room is to be occupied by more than 2 adult lodgers.	Yes.
Facilities Adequate bathroom and kitchen facilities are to be available within the boarding house for the use of each lodger	Individual facilities have been provided in each room.	Yes.
Boarding Room Manager A boarding house that has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling is to be provided for a boarding house manager	A manager's room is proposed on the ground floor.	Yes.
Non-residential ground floor within commercial zones For a boarding house on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street is to be used for residential purposes unless another environmental planning instrument permits such a use	The site is within a Residential zone.	NA.

<p>Motorcycle/Bicycle</p> <p>One parking space is to be provided for a bicycle, and one space is to be provided for a motorcycle, for every 5 boarding rooms.</p>	<p>103 rooms</p> <p>$103/5 = 20.6$ (21)</p> <p>Within the basement, 21 motorbikes and within the ground to the third floor 28 bicycle spaces are provided.</p>	<p>Yes.</p>
Clause 30A – Character of the Local Area		
<p>Character</p> <p>Design of the development is compatible with the character of the local area.</p>	<p>The immediate catchment and the establishment of character for the site requires consideration of the existing streetscape and potential 'desired' character of the area, which is indicative of the surrounding zones. The subject site is situated on a regular-shaped allotment located within the R4 zone.</p> <p>The adjoining properties opposite the site, along the western side of Chapel Road are zoned SP2 Educational Establishment. To the north and south along the eastern side of Chapel Road is zoned R4 High Density Residential where the immediately surrounding existing development consists of high scale (3-4 storeys) residential flat buildings.</p> <p>The design put forward within this DA, is sympathetic to the existing character through the selection of materials and finishes and provides for a building that aligns with the built form, bulk & scale of the area and generally conforms to the desired future character of the area.</p> <p>The development achieves a walkable, legible pedestrian interface within the surrounding properties, the street alignment and 6m front boundary setback facing Chapel Road is maintained (noting that it is also consistent with the existing alignment).</p> <p>Council concludes that the development provides for an appropriate response to the opportunities afforded by the ARH SEPP and relevant planning controls and is consistent with the character of the local area.</p>	

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

Eighteen (18) trees are proposed to be removed in association with this development. The proposed development has been reviewed by Council's Tree Management Officer raises no concerns, subject to suitable landscaping, compliance with the submitted Arborist Report and conditions consent imposed. As such, it is considered that the proposal satisfies the provisions of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development and aims to encourage sustainable residential development.

BASIX Certificate No. 1114125M, dated 14 October 2020 was submitted with the assessment of the development application and demonstrates that the proposal achieves compliance with the BASIX water, thermal comfort and energy efficiency targets.

Bankstown Local Environmental Plan 2015

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

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.6 – Exceptions to Development Standards
- Clause 6.2 – Earthworks

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses, except for the proposed variation to Clause 4.3 – Height of Buildings of the Bankstown Local Environmental Plan 2015. A more detailed assessment against the zoning, environmental and numerical development standards contained in the abovementioned clauses is provided below.

Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the BLEP 2015, which provides as follows:

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.*

The proposal generally complies with the relevant aims of this Plan with particular regard to the provision of housing and concentration of development in areas accessible to transport as well as with the objectives of the relevant R4 High Density Residential land use zone with regard to the provision of housing needs within a high-density environment.

Clause 2.3 - Zone objectives and Land Use Table

The site is located in the R4 High Density Residential zone, in which development for the purposes of a 'boarding house' is permitted. Moreover, the proposal is consistent with the objectives of the R4 zone, being:

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

Clause 4.3 - Height of buildings

The proposal complies with the development standards contained in BLEP 2015, except for Clause 4.3 – Height of Buildings. The development proposed a maximum HOB of 14.5m which is above the maximum HOB of 13m under the BLEP 2015. The non-compliant building height primarily derives from the roof form, predominately located to the rear of the development due to the slope of the site.

Clause 4.6 – Exceptions to Development Standards

Pursuant to Clause 4.6 of BLEP 2015, the applicant has made a submission seeking a variation to the provisions contained in Clause 4.3 of BLEP 2015. The Clause 4.6 submission details the extent of the variation as follows:

- The maximum HOB of the development is 14.5m. This is 1.5m or 11.5% above the maximum HOB of 13m under the BLEP 2015
- The majority of the building exceedance towards the rear of the site relates to a maximum height varying between 14m to 14.5m across the ridge line. The percentage variation consists a maximum of 2.3% for the lift overrun and 11.5% for a hipped metal roof.

An assessment of the development against Clause 4.6(2), (3) and (4) of BLEP 2015, including extracts from the applicant's submission, is provided below:

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

Clause 4.3(2) prescribes a maximum building height of 13m for the subject site. The proposed development results in a maximum building height of 14.5m.

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

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

An extract from the applicant's submission is provided below:

"It is our opinion that the proposal satisfies two of the five ways established in Wehbe that demonstrates that the development standard is unreasonable and unnecessary in this instance, for the reason set out below.

1st Way – The objectives of the standard are achieved notwithstanding non-compliance with the standard.

The proposal satisfies the objectives of the standard to the extent relevant to the current proposal, and compliance with the maximum building height standard in the circumstances is considered both unreasonable and unnecessary for the following reasons.

Objective (a) – To ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located.

The proposal is a 4-storey building and under the LEP a maximum 13m building height contemplates 4 storey residential development.

*The architect has skillfully ensured that height exceedances are concentrated within the centre of the building to minimise being perceived from the public domain and surrounding properties. Despite this, the site context is notably opposite the TAFE site which is subject to a 29m height limit which will have a dominating presence in the streetscape. The roof form is designed to transition from the centre of the site to a compliant height based on wall heights, facing side and rear boundaries. This will result in a scale commensurate with adjoining residential flat buildings when viewed from adjoining properties (see **Figures 8 and 9** above).*

The building maintains a 4 storeys height throughout and the exceedance of the height standard is a consequence of variable ground levels and the architectural form of the roof. The roof form has both an aesthetic and functional purpose. The roof form delivers heightened floor to ceiling heights for the level 4 rooms which provide enhanced amenity to these units and sculptured architectural roof form that will positively contribute to the character of the area.

Objective (b) – To maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone Low Density Residential.

This objective only relates to development on land zoned R2. Despite this, the proposed development will be consistent with the existing and planned character of Chapel Road and there would be no resultant unacceptable amenity impacts.

Objective (c) – To provide appropriate height transition between developments particularly at zone boundaries.

The site to the west is zoned SP2 Educational Establishment where the existing building height has a 29m and currently comprises a substantial 6 storey building. Although the proposed boarding house exceeds, in part the height of building prescribed for the site, the proposed height is compliant as it presents to the street and provides an appropriate height transition between SP2 and R4 zoned land.

Objective (d) – To define focal points by way of nominating greater building heights in certain locations.

The proposed boarding house is within close walking distance to the local town centre and public transport service. The site is on land zoned R4 which aims to provide higher density living. The site is located within 100m of the Northern Core CBD where the desired character of the area is to provide tall buildings that creates an identifiable skyline for the Bankstown CBD.

The building, and in particular its roof form will provide a considered contribution to the townscape, and a contribution to marking the entry to the CBD along Chapel Road.

Accordingly, the variation to the maximum height of building standard will not compromise achievement of the objectives of the standard.

3rd Way – The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required.

The partial height exceedance is not associated with an attempt to exceed the permitted floor space of the site or a four storey height that could be expected with a 13m height standard. The exceedance is a consequence of a carefully considered design approach that is site responsive, and that seeks to provide high quality affordable housing of an appropriate scale and density that delivers the variety and volume of housing planned for the R4 High Density Residential Zone.

The height variation is a consequence of the architectural form of the building that provides both a sculptural contribution to its design and enhanced internal amenity. A compliant design would result in a poorer architectural result that was less responsive to the context of the site and poorer internal amenity for future occupants for the reasons discussed further below.”

It is agreed that compliance with the development standard is unreasonable and unnecessary as the excess building height relates to a minor height exceedance to the lift overrun and architectural roof form to the rear of the building due to a change in ground level across the site. The building elements that are of a non-compliant height cannot be readily seen from the public domain at street level on Chapel Road. The development is considered to be compatible with the character, amenity and landform of the local area.



Source: Height Analysis, Hill Thalys Architectural, Revision B dated 9.06.2021 (DA3.30)

Figure 3: North East corner – Height Plane

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

An extract from the applicant's submission is provided below:

"There are three primary environmental planning grounds which support the contravention to the height of building standard.

- Variations in ground level results in parts of the building being below and above the maximum height standard.*
- A resultant heightened roof form in the centre of the building that is an important sculptural element to the overall architecture of the building.*
- A site context inclusive of being opposite SP2 zoned land with height limits of 29m and existing 6 storey TAFE development being surrounded by existing older residential flat buildings and exposure to Chapel Road (being a classified road) that warrants the adoption of a courtyard style building to provide good levels of internal amenity for future residents. Accommodating the Affordable Rental Housing SEPP FSR bonus results in a building form that is higher than would otherwise be contemplated but with no consequential unacceptable impacts.*

A 13m height standard would contemplate 4 storey residential flat development. The building is consistently 4 storeys in height. However, while parts of the building are compliant with the height standard, other parts are not. This is substantially a consequence of the variation in ground floor level across the site. Overall, the site falls from a level of 43.02m AHD at the north western boundary end of the site to 40.20m AHD to the south eastern end of the site.

The proposal as amended seeks a variation to the height standard to accommodate a higher roof form within the centre of the building which provides a sculptural contribution to the architectural form of the building. This allows for a building presentation that reflects elements of pitched roofs associated with existing housing and older residential flat buildings in the area and provides for a diversity in building form compared to more typical flat roof designs. This coincidentally provides for increased floor to ceiling heights for level 4 rooms. The design enhances the amenity of these rooms and provides a range of styles of accommodation. The higher roof form is integrated into the architectural roof form that is responsive to the character of the area and has no consequential amenity impact."

It is agreed that the higher roof form is integrated into the architectural roof form that is responsive to the character of the area and has no consequential amenity impact. The proposed height is considered appropriate as it reflects the general scale of that envisaged under the BLEP 2015 and development within the vicinity, creating an appropriate built form transition whilst meeting the objectives of the control. The proposed development generally complies with the maximum building height control of 13m as specified in the BLEP 2015.

However, there is a minor 1.5m noncompliance which will not result in any adverse or unreasonable visual impacts when viewed from the public domain.

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that;**
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3);

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

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

The proposed development is in the public interest and is in keeping with the objectives of Clause 4.3 – Height of Buildings and zone R4 High Density Residential of BLEP 2015. In particular, the development achieves the objectives relating to the character of the area, the streetscape and visual amenity of the area.

The proposal seeks to replace older, existing buildings with a permissible, generally compliant boarding house. The roof design incorporates architectural features that presents an aesthetic purpose. The roof form delivers heightened floor to ceiling heights for the rooms on level 4 providing enhanced amenity and sculptured an architectural roof form that will positively contribute to the character of the area. The minor height exceedance of the lift overrun, and roof form will not result in any notable shadows beyond that cast by the overall building envelope.

Furthermore, a visual analysis submitted by the applicant throughout the assessment of the application determined that these building elements will not result in any adverse or unreasonable visual impacts when viewed from the public domain.

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

The concurrence of the Director General is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 20-002, dated 5 May 2020.

As outlined above, it is considered that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the development remains an appropriate built form outcome for the site, despite the contravention to the development standard.

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

Clause 4.4 - Floor space ratio

In accordance with BLEP 2015 Floor Space Ratio Map, the maximum permitted floor space ratio for the subject site is 1:1. However, the proposal is afforded with an additional bonus floor space of 0.5:1 under Clause 29(1)(c)(i) of *SEPP (Affordable Rental Housing) 2009*. The proposed FSR for the development is 1.45:1 and is therefore compliant with the maximum floor space ratio for this development which is 1.5:1.

Clause 6.2 - Earthworks

In accordance with clause 6.2, in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), Council must consider the following matters:

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

The development is not considered to be inconsistent with this clause. The development involves excavation works to accommodate two levels of basement car parking. The extent of the excavation is appropriate and acceptable.

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

Draft State Environmental Planning Policy (Housing) 2021

Pursuant to pursuant to section 4.15(1)(a)(ii) of the *EPA Act 1979*, consent authorities are now required to take into consideration the draft provisions of SEPP Housing 2021 when assessing development applications for various types of housing. The draft instrument proposes a savings provision whereby applications lodged prior to the commencement of the instrument will be required to consider the SEPP but would not be bound by it (continuing to have the same authority as a proposed instrument).

The draft instrument makes a number of changes to the assessment of boarding house applications, including requiring minimum landscaping areas for boarding houses in Zones R2 and R4, minimum lot size and setback requirements, minimum separation requirements for boarding houses exceeding 3 storeys, minimum solar access and area requirements for the communal living room, minimum requirement for at least 20% of the total site area to be provided as communal open space, minimum car parking, bicycle and motorcycle parking requirements, maximum of 12 boarding rooms for boarding houses in Zone R2, permitting a bonus floor space ratio of 25% for boarding houses proposed in zones in which residential flat buildings are permitted and restricting minimum and maximum floor area requirements for boarding rooms.

The development is considered to be consistent with aims of the instrument and with the changes to boarding house developments proposed through the Draft EPI.

Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020

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 reviewed by the Department of Planning. While the draft instrument proposes the introduction of some additional provisions, in the most part, 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 respect to the proposed development the proposal remains consistent with the aims and objectives of the draft instrument. The proposed development is not inconsistent with the draft provisions.

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

Bankstown Development Control Plan 2015 (BDCP 2015)

The table below provides for an assessment of the development having regard to the relevant provisions contained within Section 10 of Part B1 and Clause 2.1 of Part B5 of the Bankstown Development Control Plan 2015.

Part B1 – Residential Development – Section 10			
Standard	Requirement	Provided	Complies (Yes/No)
10.3 Storey Limit	The storey limit for boarding houses in Zone R4 is 3 storeys.	4 storeys proposed.	No. However, meets the design criteria and design guidance contained in the ADG.

10.4 Storey limit	<ul style="list-style-type: none"> - Compatible with the existing slope and contours of the allotment and any adjoining property. - No elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation. 	Considered to be compatible with the existing slope / contours of the land.	Yes.
10.5 Storey limit	<p>Reconstituted ground level must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where:</p> <p>(b) the fill is contained within the ground floor perimeter of boarding houses to a height no greater than 1 metre above the ground level (existing) of the allotment.</p>	<p>No retaining walls proposed alongside adjoining properties</p> <p>Excavation required for basement is considered suitable.</p>	Yes.
10.12 Setbacks in Zone R4	6 metres	6.0 metre setback to front building wall	Yes.
10.15 Setbacks in Zone R4	4.5 metres provided the average setback is 0.6 multiplied by the wall height.	<p>11.45 metre wall height = 6.87 metre setback required on average.</p> <p>The proposal has variable side setbacks of 3-5m to the north boundary; 1.5-3.6m to the south boundary; and 4.5-4.8m to the east boundary.</p>	No. Refer to comments below under non-compliances
10.16 Setbacks in Zones R3 and R4	2 metre setbacks to boundary to basement	Minimum 2m setbacks to side/rear boundary.	Yes.
10.17 Setbacks in Zones R3 and R4	1 metre setback from driveway to boundary	1.5m setback to boundary provided.	Yes.
10.18 Private open space	One area of at least 20m ² with a minimum dimension of 3 metres for the use of the lodgers; and one area of at least 8m ² with a minimum dimension of 2.5 metres is provided adjacent to manager room.	A communal open space area of 100m ² is provided for the lodgers, with a minimum dimension of 3m; and 10.2m ² of private open space for the manager, with a minimum dimension of 2.5m.	Yes.

10.19 Private open space	Locate behind front building line. Does not apply to any balconies where it is used to provide articulation to the street facade.	Private open space located behind the front building line.	Yes.
10.20 Access to sunlight	70% of boarding rooms have 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice.	74/103 = 71% of boarding rooms receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice.	Yes.
10.21 Access to sunlight	Communal room to receive a minimum of 3 hours direct sunlight between 8.00am and 4.00pm at the mid-winter solstice.	Each communal room achieves solar access from 1pm to 4pm at mid-winter	Yes.
10.22 Access to sunlight	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.	Negligible overshadowing impacts on adjoining properties, as demonstrated through provided shadow plans.	Yes.
10.23 Access to sunlight	A minimum 50% of the private open space required for boarding houses and a minimum 50% of the private open space of a dwelling on an adjoining allotment must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met for a dwelling on an adjoining allotment, the development must not result with additional overshadowing on the affected private open space.	Negligible overshadowing impacts on adjoining properties, as demonstrated through provided shadow plans.	Yes.
10.24 Access to sunlight	Avoid overshadowing any existing solar hot water system	None present on the southern property at the time of assessment.	Yes.
10.25 Visual privacy	Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must:		Yes.

	<p>(a) offset the windows between dwellings to minimise overlooking; or</p> <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>	The site has increased setbacks to reduce impact on adjoining properties to the north, south and east. The building separation is considered suitable for a high-density environment.	
10.26 Visual privacy	<p>Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where:</p> <p>(a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or</p> <p>(b) the window has a minimum sill height of 1.5 metres above floor level; or</p> <p>(c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or</p> <p>(d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling.</p>	The site has increased setbacks to reduce impact on adjoining properties to the north, south and east. The building separation is considered suitable for a high-density environment.	Yes.
10.28 Visual privacy	Council does not allow boarding houses to have rooftop balconies and the like.	No rooftop balconies provided.	Yes.
10.29 Building design	Council applies the ADG	Considered within this assessment.	Yes.
10.30 Building design	<p>- at least one communal living room will be provided; and</p> <p>(b) if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen</p>	<ul style="list-style-type: none"> • Communal area provided on ground floor. • Floor areas comply for single and double-boarding rooms • Condition for maximum 198 persons on site 	Yes.

	<p>or bathroom facilities) of at least:</p> <p>(i) 12m² in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16m² in any other case; and</p> <ul style="list-style-type: none"> - no room will have a GFA of more than 25m² - no boarding room will be occupied by more than 2 adult lodgers - adequate bathroom and kitchen facilities will be available - a boarding room or on site dwelling will be provided for a boarding house manager - at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms. 	<ul style="list-style-type: none"> • Bathroom and kitchen facilities are provided • On-site managers room provided • 103 rooms <p>$103/5 = 20.6$ (21)</p> <p>Within the basement, 21 motorbikes and within the ground to the third floor 28 bicycle spaces are provided.</p>	
10.31 Building design	Maximum 35 degrees.	Less than 35 degrees proposed for clearstory rooftop windows.	Yes.
10.32 Building design	Attics prohibited	No attics proposed.	Yes.
10.33 Building design	Plant room and services are integrated and screened	Plant & services room; and bin enclosure suitably screened.	Yes.
10.34 Building design	Must demolish all existing dwellings on the allotment.	Condition to be imposed.	Yes.
10.35 Building design	One adaptable boarding room in accordance with AS 4299–Adaptable Housing.	6 adaptable boarding rooms provided.	Yes.
10.38 Building design (car parking)	Vehicles can leave the allotment in a forward direction.	Basement allows for forward entry / exit.	Yes.
10.39 Building design (car parking)	Locate the car parking spaces behind the front building line.	All parking is located behind the front building line.	Yes.

10.40 Building design (car parking)	Garage architecturally integrates with the development and does not dominate the street facade	Basement garage is considered to be integrated into the architecture of the proposal.	Yes.
10.41 Landscaping	Retain and protect significant trees on the allotment and adjoining allotments	The proposed development has been reviewed by Council's Tree Management Officer who concurs with recommendations of the submitted arborist report thereby allowing for the removal of the 18 trees on the site.	Yes.
Part B5 – Parking			
Standard	Requirement	Provided	Complies (Y/N)
2.1 Off-street parking spaces	0.5 car spaces per boarding room and 1 car space for each person employed in connection with the development and who is resident on site.	103 boarding rooms, including 1 manager room Requires 53 car parking spaces 55 car parking spaces provided, including 4 accessible spaces.	Yes.

The following comments are offered in relation to the proposed departure to the provisions contained within Clause 10.15 of Part B1 of the BDCP 2015;

Clause 10.15 *For a building with 3 or more storeys, the minimum setback to the side and rear boundaries of the allotment is 4.5 metres provided the average setback is 0.6 multiplied by the wall height.*

The building separation distances between the proposed development and all adjoining properties to the north, south and east of the site achieve a minimum separation of 12 metres. This separation is compliant with Objective 3F-1: Design Criteria 1 of the Apartment Design Guide. It is considered the proposed development's elevations satisfy the objectives of the control with regard to building separation, maintenance of visual privacy and the provision of suitable landscaping, notwithstanding the numerical non-compliance.

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

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 detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the building height standard in BLEP 2015 and setbacks control in BDCP 2015, they have been addressed and are 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 for a period of 21 days. A total of ten (10) separate submissions were received during this period, outlining the following concerns:

- **Safety - increase in crime and anti-social behaviour and long term management of the boarding rooms and Council monitoring**

There are no particular design aspects of this development that would suggest that following the construction and the building being occupied, that the development will result in an increase in crime in the area.

Council's safety officer has reviewed the proposal and considers the application to be acceptable subject to conditions of consent. The assessment of the application included review of the plan of management for the boarding house which, amongst other things, detailed the handling of complaints, the 'house rules', visitors to the site and detailed the responsibilities of the lodgers and caretaker/manager. Specifically, the plan of management states that *'The site management will be responsible for the logging of any complaints in a "Complaints and Incident Register" and the resolution of those complaints which is also to be documented. The Complaints and Incidence Register will be made available immediately upon demand at the request of Council and/or the Police.'*

- **No need for boarding houses at this location (no demand/over supply)**

Boarding houses are a permissible form of development within the R4 High Density Residential zone. Further, the site is located within an 'accessible area' and therefore the development meets the requirements to be considered under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. In this regard, an accessible area means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or

- (c) *400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

It is noted that there are no specific controls to limit the supply of additional affordable rental housing, rather the relevant policies encourage a range of housing types including boarding houses and affordable rental housing. In this regard, *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)* aims to '*facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards*'.

- **Inadequate parking**

As discussed in earlier sections of this report, the development meets the minimum car parking requirements for the development types proposed. In total, 51 car parking spaces are required for the development, and 55 spaces have been provided, including 4 accessible space.

- **Traffic – surrounding streets do not have capacity to accommodate any increase in traffic from the development**

The proposed development has been reviewed by Council's Traffic Department. In this regard, it is considered that Chapel Road and the surrounding street network has sufficient capacity to accommodate any potential additional traffic that is generated by the proposed development.

- **Fire safety**

The development will meet the applicable fire rating standards as contained in the Building Code of Australia and the relevant Australian Standards. Such details will be required to accompany the Construction Certificate application. There is no evidence to suggest that the development cannot be capable of meeting these requirements.

- **Privacy**

The building separation between the proposed building and the existing adjoining dwellings is considered to be satisfactory in meeting the objectives and development controls stipulated in the various policies. In this regard, the proposed development achieves reasonable levels of internal and external visual privacy for the occupants of both the existing adjoining dwellings and for the future occupants of the proposed development. No unreasonable adverse privacy impacts are envisaged to result from the proposed development.

- **Noise**

An acoustic report was prepared and submitted for the proposed development that detailed the development's impact on the adjoining properties in relation to noise. During the assessment process, Council's Environmental Health Officers reviewed the proposal and the associated acoustic report. The acoustic assessment found that the development is considered satisfactory subject to standard conditions of consent. The conditions of consent will ensure that prior to the issue of the occupation certificate that all design recommendations of the acoustic report are incorporated into the building. Further, a subsequent condition of consent will require that the ongoing management of the development will be consistent with the recommendations of the acoustic report.

- **Reduction in property values**

No evidence substantiating the claim that the development will devalue the adjoining properties has been submitted to Council. In any case, the issue of property values and the factors that either contribute to increasing or reducing property values is outside the scope of the development assessment process.

- **Solar access**

With regard to solar access to the existing adjoining residential properties, the development complies with the requirements of BDCP 2015 – Part B1 Residential Development and exceed the minimum requirements of the Apartment Design Guide. The amenity maintained to the adjoining properties is considered to be acceptable in this regard.

- **Boarding houses are cheap housing and generally attract similar socioeconomically aligned members of society**

There is no evidence to suggest that the proposed development will result in any direct increase in crime or anti-social behaviour in the locality.

- **Roof-top area**

Revised architectural plans have been submitted to Council and the roof-top area has been removed from the development design.

- **Storey limit**

Revised architectural plans have been submitted to Council demonstrating a reduction in the number of storeys proposed from 5 to 4 levels. The development is compliant with regard to storey limit (*it doesn't satisfy the storey limit in the DCP*) and meets the design criteria and design guidance in State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65).

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the development controls contained in the *Bankstown Development Control Plan 2015* and the *Bankstown Local Environmental Plan 2015*, and the requirements of the *Affordable Rental Housing SEPP*. Matters raised in public submissions have been satisfactorily addressed, and it is not considered that there would be any unreasonable impacts on the locality.

CONCLUSION

The Development Application has been assessed against the matters for consideration contained within Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*, requiring an assessment against, amongst other things, the provisions contained within *State Environmental Planning Policy No 55 – Remediation of Land*, *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Bankstown Local Environmental Plan 2015*, the *Draft Consolidated LEP 2020* and *Bankstown Development Control Plan 2015*.

In this regard, the proposal is generally consistent with the various layers of legislation that applies to the development and any non-compliances have been appropriately justified. The development results in an appropriate built form for the site which is consistent with the longer term desired character illustrated in Council's Local Environmental Plan and draft Consolidated Local Environmental Plan.

Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in the public submissions. Approval of this application would facilitate the provision of affordable housing development on a site within an 'accessible area' without having any unacceptable or unreasonable impacts on the surrounding locality.

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.

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

Plan No.	Plan Name	Date	Rev.	Prepared By
DA1.06	Site Plan	09/06/2021	C	Hill Thalys Architecture & Urban Projects Pty Ltd
DA1.07	Demolition Plan	27/10/20	A	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.00	Lower Basement Plan	12/08/2021	K	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.01	Upper Basement Plan	12/08/2021	K	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.02	Floor Plan - Ground	12/08/2021	L	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.03	Floor Plan – Level 1	09/06/2021	I	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.04A	Floor Plan – Level 2	09/06/2021	C	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.04B	Floor Plan – Level 3	09/06/2021	C	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.06	Roof Plan	09/06/2021	H	Hill Thalys Architecture & Urban Projects Pty Ltd

DA-2.10	Sections	09/06/2021	G	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.11	Sections	09/06/2021	H	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.20	Elevations	12/08/2021	H	Hill Thalys Architecture & Urban Projects Pty Ltd
DA2.21	Elevations	09/06/2021	H	Hill Thalys Architecture & Urban Projects Pty Ltd
DA4.00	Materials & Finishes Schedule	17/09/2020	B	Hill Thalys Architecture & Urban Projects Pty Ltd
LS01	Landscape Site Plan	15/09/2020	B	Melissa Wilson Landscape Architect
LS02	Landscape Plan – Ground Floor	15/09/2020	B	Melissa Wilson Landscape Architect
LS03	Ground Floor Plan Schedule + Precedents	15/09/2020	B	Melissa Wilson Landscape Architect
LS04	Landscape Plan – Roof Terrace	15/09/2020	B	Melissa Wilson Landscape Architect

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

The approved plans are to be amended as follows:

- a. Sight triangle is to be marked on the Ground floor plan and provided on the exit side driveway, in accordance with *AS 2890.1:2004 Figure 3.3 – Minimum Sight Lines for Pedestrian Safety*. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.
- 1.2. 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.

- 1.3. A separate application shall be submitted to Council prior to the erection of any additional signage unless the proposed signage is "exempt development" in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 1.4. The development is approved for 103 boarding rooms for a maximum capacity of 198 persons (inclusive of manager).
- 1.5. Subdivision of the boarding house is not permitted.
- 1.6. Any new information which comes to light during demolition/excavation/construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 1.7. The plan of management submitted in support of this application titled, '*Operational Plan of Management, 493-497 Chapel Road, Bankstown*', dated October 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.
- 1.8. The acoustic report submitted in support of this application prepared by Acoustic Logic Consultancy Pty Ltd, titled, '*493-497 Chapel Road, Bankstown, Development Application Acoustic Assessment*', report number 20200570.1/1307A/R0/LL, dated 13 July 2020 and all the recommendations stated within the report, form 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 to Council prior to the issue of any Occupation Certificate.

2. Conditions to be Satisfied Before the Issue of a Construction Certificate.

- 2.1. Development Contributions of \$821,389.00 must be paid for this development before the issue of any construction certificate. The contributions are levied under Bankstown Development Contributions Plan 2019 and Section 7.11 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development.

The development contribution will be allocated to the following purposes under the contributions plan:

Open space and recreation	\$516,640.00
Roads and traffic facilities	\$99,073.00
Community facilities	\$61,193.00
Public domain facilities	\$137,116.00
Plan administration and management	\$7,367.00

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. The landscape plan shall include the provision for the replacement of all boundary fencing where such fencing is substandard. 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.
- 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. Approval is granted for the removal of the following trees:

- a. 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;
- b. 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;
- c. Any tree species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order;
- d. Any of the following tree/s: T11, T20, T29

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.

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. 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

- 2.7. 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.

- 2.8. 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 TAPIN™.

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.

- 2.9. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.10. 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>.
- 2.11. 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. A heavy duty VFC of maximum width of 5.5 metres at the property boundary.
 - b. Connection to stormwater system in Conway Road.

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

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The 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. 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.
- 2.13. 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 Carparking and Council's development control plan.
- 2.14. 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.

- 2.15. 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.
- 2.16. The development is to be carried out in accordance with the commitments shown in the BASIX Certificate Number: 1114125M, dated 14 October 2020. The BASIX commitments approved with the development application are to be reflected in the construction certificate plans and specifications.
- 2.17. 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.

Drawing number	Revision	Date	Prepared By
C-001	P1	14.09.2020	TDL Engineering Consulting
C-002	P3	14.09.2020	TDL Engineering Consulting
C-101	P4	30.04.2021	TDL Engineering Consulting
C-102	P4	30.04.2021	TDL Engineering Consulting
C-103	P8	30.04.2021	TDL Engineering Consulting
C-104	P3	14.09.2020	TDL Engineering Consulting
C-105	P3	14.09.2020	TDL Engineering Consulting
C-106	P4	06.08.2021	TDL Engineering Consulting
C-201	P2	14.09.2020	TDL Engineering Consulting
C-202	P3	30.04.2021	TDL Engineering Consulting

The above listed stormwater management plans shall be amended to ensure the following:

- a. The rainwater tank shall be connected to a minimum two outdoor taps for irrigation and toilet flushing for all dwellings.
- 2.18. 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.

- 2.19. 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.
- 2.20. A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.
- 2.21. Prior to any works on-site, all household bins are to be returned to Council.
- 2.22. A design certificate and detailed plans are to accompany any construction certificate application which demonstrate that the waste storage room on the Ground Floor has been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:
- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
 - b. The floors must be finished so that is non-slip and has a smooth and even surface;
 - c. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
 - d. The walls must be constructed of solid impervious material;
 - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
 - f. Walls, ceiling and floors must be finished in a light colour;
 - g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
 - h. A self-closing door openable from within the room;
 - i. Must be constructed to prevent the entry of birds and vermin;
 - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
 - k. Any doorways must be minimum 2m wide;
 - l. Designed to fit 5 x 1,100L garbage bins; and
 - m. Designed to fit 5 x 1,100L recycling bins.
- 2.23. A design certificate and detailed plans are to accompany any construction certificate application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:
- a. Direct and less than 15 metres;
 - b. Minimum 2m wide hard surface (including gate openings);
 - c. Non-slip, free from obstacles and steps;
 - d. Not within a driveway or carpark;

- e. A maximum grade of 1:30 (3%); and
- f. Layback installed at the nominated collection point.

2.24. A design certificate and detailed plans are to accompany any construction certificate application which demonstrates that the bulky waste storage room on the Upper Basement has been designed to be constructed in accordance with the following requirements:

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- b. The floors must be finished so that it is non-slip and has a smooth and even surface.
- c. The walls must be constructed of solid impervious material;
- d. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
- e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- f. Walls, ceiling and floors must be finished in a light colour;
- g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
- h. A self-closing door openable from within the room;
- i. Must be constructed to prevent the entry of birds and vermin;
- j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- k. All doorways must be 2m wide; and
- l. Designed with a minimum floor space of 11m².

2.25. A design certificate and detailed plans are to accompany any CC application which demonstrates that the recycling store room on the Ground Floor has been designed to be constructed in accordance with the following requirements:

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- b. The floors must be finished so that it is non-slip and has a smooth and even surface.
- c. The walls must be constructed of solid impervious material;
- d. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
- e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- f. Walls, ceiling and floors must be finished in a light colour;
- g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
- h. A self-closing door openable from within the room;

- i. Must be constructed to prevent the entry of birds and vermin;
- j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- k. All doorways must be 2m wide; and
- l. Designed with a minimum floor space of 5m².

2.26. 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 TfNSW (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.

- 2.27. 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.

- 2.28. 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.

- 2.29. 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.
- 2.30. 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.
- 2.31. The layout of the approved car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, and parking bay dimensions) should be in accordance with the AS 2890 parking series.

Furthermore, 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 Certifier 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 parking series. 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. The parking areas including the ramp shall demonstrate a 2.2m clearance headroom in accordance with AS2890.1:2004.

- 2.32. 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.
- 2.33. 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.

2.34. Access to all communal and public areas of the basement and ground floor of the development, including communal open spaces, are to be designed and constructed in accordance with the requirements of Disability (Access to Premises — Buildings) Standards 2010.

2.35. The boarding house must be designed, constructed and operated in accordance with:

- a. *Local Government (General) Regulation 2005, Schedule 2, Part 1* Standards for places of shared accommodation;
- b. *Boarding Houses Act 2012*; and
- c. *Boarding Houses Regulation 2013*.

The principal certifier shall ensure prior to the issue of any construction certificate that all construction plans abide by the relevant requirements of the above.

2.36. 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.

2.37. In the unforeseen event that a substation is required, the size and location of the substation is to be submitted for approval to Council and Ausgrid, prior to the issue of any Construction Certificate or the commencement of use, whichever is earlier. A substation has not been approved and if required details must be submitted to Council.

The substation must not be situated within any landscaped area, must not be situated in any area visible from the public domain and must be integrated into the building.

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier an area of land within the building to enable an electricity substation to be installed.

2.38. Hydrant boosters are to be integrated / incorporated into the built form and design of the development.

2.39. Separate approval is required for any heat shield and/or associated fire assembly structures/facilities not shown on the approved plans.

- 2.40. Prior to the issue of a Construction Certificate, a dilapidation survey must be undertaken by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 for the adjoining properties at 489 & 499 Chapel Road, Bankstown and 28 & 34-36 Conway Road, Bankstown and is to detail the physical condition of all structures (including driveways, retaining walls, and other outdoor structures such as carports, pergolas, awnings, 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 strata owner prior to the issue of a Construction Certificate.

- 2.41. 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.
- 2.42. The applicant shall apply to the Canterbury Bankstown Traffic Committee for the installation of a Works Zone at the site's frontage in Chapel Road, 8 weeks in advance of when construction is scheduled to begin, including payment of the relevant fees & charges. This is subject to recommendation by the Traffic Committee, and must be approved and paid for prior to issue of a Construction Certificate.

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. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 3.3. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —
- a. In the case of work for which a principal contractor is required to be appointed—
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act,
 - b. In the case of work to be done by an owner-builder—
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- 3.4. 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.
- 3.5. 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).
- 3.6. 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.
- 3.7. 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.
- 3.8. 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.

- 3.9. 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.

3.10. 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.

3.11. The demolition of all structures on the property must be undertaken in accordance with all the following:

- a. Written notice must be issued to adjoining residents a minimum of seven (7) days prior to the commencement of demolition advising of the commencement date,
- b. Written notice must be issued to Council for inspection a minimum of (7) days prior to the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
- c. Inspections being undertaken by Council including:
 - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and prior to demolition work commencing, and
 - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
- d. Payment of an inspection fee at Council's current rate must be paid prior to inspection. Council requires 48 hours' notice to carry out an inspection,
- e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
- f. All demolition work must be carried out in accordance with Australian Standard 2601-2001 – The Demolition of Structures,
- g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,

- h. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
- i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,
- j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
- k. Adhere to the requirements stipulated in the approved Waste Management Plan, and
- l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

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

- 3.12. The pruning or removal of trees on adjoining properties for the provision of building clearances, provide access or allow construction is to be carried out only with the written agreement of the tree owner.

4. Conditions to be Satisfied During Construction.

- 4.1. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 4.2. 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.
- 4.3. 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.
- 4.4. Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works. When implementing the WMP the developer is to ensure:

- a. The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997;
 - b. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*;
 - c. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW;
 - d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it;
 - e. Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/details are also to be kept of person removing the waste;
 - f. All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses; and
 - g. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.
- 4.5. Building work must be carried out in accordance with the requirements of the BCA.
- 4.6. 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.

- 4.7. 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.
- 4.8. 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.
- 4.9. 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.
- 4.10. 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.
- 4.11. 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.
- 4.12. 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.

- 4.13. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 4.14. Redundant driveway along Chapel Road fronting the development to be removed and reinstated with kerb and gutter and verge to match with remaining.
- 4.15. The footpath is to be reconstructed along the Chapel Road frontage at the development's cost.
- 4.16. Underground services should use common trenches outside the Tree Protection Zone. If services need to be run within the Tree Protection Zone then all utility pipes and similar are to be installed using appropriate directional boring techniques. No tree roots are to be severed or damaged during this work.
- 4.17. The applicant shall ensure all overhead electrical wires between the power pole and approved structures are located outside the crowns of existing trees and in accordance with the clearances specified by the energy authority. The overhead wires are also to be located to avoid future conflict with any trees planted in accordance with the development consent.
- 4.18. The applicant shall ensure full compliance with the recommendations numbered in section 7 up to and including section 8.5 in the Arborist Report prepared by Meredith Gibbs dated 31/8/2020 and 16/09/2020, which was submitted to Council as part of this application.
- 4.19. A qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - shall be retained and regularly consulted throughout all demolition, clearing and construction work to ensure protection of the trees retained and compliance of all work with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites.
- 4.20. No permanent or temporary anchors are to be installed on adjoining properties without the approval of the adjoining landowners.

- 4.21. If any neighbouring properties or roadway are to be utilised for support, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owner must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged to Canterbury Bankstown Council prior to the issue of a Construction Certificate.

Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.

Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.

Where temporary anchors are proposed to be used, an Application must be made to Canterbury Bankstown Council for approval under Section 138 of the *Roads Act 1993*, via a Road Works Permit application.

The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve.
 - b. All existing services must be shown on a plan and included on cross sectional details where appropriate.
 - c. Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
 - d. The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
- 4.22. 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.

- 4.23. 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.

- 4.24. 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. A copy of the waste removal agreement and receipts shall be made available to Council on request.
- 4.25. 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.
- 4.26. 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.
- 4.27. 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 in the downstream property shall be to the satisfaction of the owners of the property/these properties.

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 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).
- 5.3. Consolidation of the existing allotments must be registered by NSW Land Registry Services prior to the issue of any occupation certificate.
- 5.4. Landscaping is to be installed in accordance with the approved landscape plan(s). All works and methods nominated and materials specified on the approved landscape plan(s) are to be completed prior to the issue of an Occupation Certificate. The landscaping plan shall be maintained for the life of the development.
- 5.5. Fifty-five (55) off-street car spaces being provided in accordance with the submitted plans. This shall comprise:
 - Fifty-five (55) residential spaces.

Four (4) of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.
- 5.6. Twenty-one (21) off-street motorbike spaces being provided in accordance with the submitted plans.
- 5.7. Resident and visitor bicycle parking spaces are to be provided within the ground to the third floor in accordance with the submitted plans.
- 5.8. 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.
- 5.9. 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.

- 5.10. 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.

Lighting of communal areas must be designed to promote a high level of safety and security at night and during periods of low light.

- 5.11. Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282: Control of the Obtrusive Effects of Outdoor Lighting to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 5.12. The building must be readily identified from the street with the allocated house numbers. An official "house numbering" letter is issued to the person having benefit of this Determination Notice indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.
- 5.13. 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.
- 5.14. The applicant is to seek approval from the appropriate authority for the installation of a "No stopping on waste collection days" (or similar), sign at the kerbside collection point at the front of 493-497 Chapel Road, Bankstown.
- 5.15. The owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial portion of the 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; and
- 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.

- 5.16. 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.

- 5.17. 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.

- 5.18. Prior to the issue of any Occupation Certificate, under the Boarding Houses Act 2012, Boarding House proprietors are required to register their boarding house with NSW Fair Trading. Failure to do so is an offence and action may be taken.

- 5.19. Prior to commencement of the boarding house use, a notification letter shall be forwarded to Council, the Police and all adjoining and adjacent neighbours with the Operator providing contact details for the registering of complaints/incidents. Evidence of this letter being forwarded as required in this condition shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate and commencement of the use.

- 5.20. Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrances and exits. All CCTV cameras shall have the capacity to store footage for a minimum of twenty-one days.
- 5.21. Prior to the issue of an occupation certificate, a pre-occupation premises inspection report is to be undertaken by Council's Environmental Health Officer.
- 5.22. Prior to the issue of any occupation certificate, a Business Registration Form must be completed and submitted to Council. This form is available online at www.cbcity.nsw.gov.au. In the instance details on the original registration form change, Council is to be notified of the change within seven (7) days of the change occurring.
- 5.23. 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.
- 5.24. 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 portion of the 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; and
- 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.

6. Conditions of Use.

- 6.1. The Plan of Management, which addresses the ongoing management and operational aspects of the boarding house is to be implemented throughout the ongoing use of the development.

- 6.2. The Plan of Management shall be displayed in prominent locations within the premises and a copy of the Plan shall be provided to all residents of the boarding house. The Operator shall be responsible for ensuring that the terms of the Plan are always adhered to.
- 6.3. The boarding house must be registered with NSW Fair Trading within 28 days, where a proprietor takes over an existing, or begins operating a new boarding house. Council will carry out initial inspection within the first twelve (12) months and on-going inspections in accordance with the *Boarding Houses Act 2012*, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.
- 6.4. Council will carry out initial inspection within the first twelve (12) months and on-going inspections in accordance with the Boarding Houses Act 2012, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.
- 6.5. 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 must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request.
- 6.6. The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
- 6.7. 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.
- 6.8. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 6.9. 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.
- 6.10. 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.

- 6.11. 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.
- 6.12. The use of the outdoor communal areas is to be restricted to between 7.00am and 8.00pm daily. This restriction is to be signposted within the outdoor communal area.
- 6.13. The hours of use of the internal communal areas is to be restricted to between 7:00 am and 10:00 pm, daily. This restriction is to be signposted within the indoor communal area.
- 6.14. No more than one lodger can occupy boarding room numbers, G14, G24, 118, 128, 218, 228, 318 and 328. No more than two lodgers can occupy the remaining boarding rooms. Boarding room number G05 can only be occupied by the building manager. The total number of lodgers residing in the boarding house at any one time must not exceed 198 lodgers.
- 6.15. All vehicles associated with the development shall enter and exit the site in a forward direction.
- 6.16. 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.
- 6.17. The Operator is to monitor the number and nature of complaints/incidents, shall formally register all incidents/complaints received and shall detail the action taken to rectify the problems that have arisen. This information shall be collated into an Incidents/Complaints Register. This Register must be produced upon demand by Council or NSW Police. The Register must contain a direction that all complaints/incidents of a criminal nature are to be reported to the Police immediately.
- 6.18. The boarding house is required to be registered on a register administered by NSW Fair Trading within 28 days, where an operator/proprietor takes over an existing, or begins operating a new, registrable boarding house. Council will carry out initial inspection (within the first twelve months) in accordance with the Boarding Houses Act 2012 and ongoing annual inspections, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.

- 6.19. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
- 6.20. Appropriate furniture and fittings must be provided and maintained in good repair.
- 6.21. All lodgers shall enter into a residential tenancy agreement before occupation of any room in the development.
- 6.22. All boarders/lodgers shall be required to reside on the premises for a minimum period of three (3) months in accordance with the definition of a Boarding House.
- 6.23. Signage is to clearly visible at the front of the Boarding House that includes a contact number for the registering of all complaints.
- 6.24. The Operator of the building must ensure that the communal and public spaces of the building including pavements and gutters as well as the grounds are to be kept clean and free of litter at all times.
- 6.25. Speakers must not be installed, and music must not be played in any of the outdoor areas associated with the premises, including the open communal area. Speakers located within the premises must not be placed to direct the playing of music towards the outdoor areas associated with the premise.
- 6.26. To reduce the risk and opportunity for mail theft, mailboxes are to be placed in a location that maximises passive surveillance by residents and on-site manager.
- 6.27. To reduce the risk of steal from motor vehicle offences, adequate access control measures are to be implemented to prevent unauthorised access to vehicles.
- 6.28. Access measures must be put in place to prevent unauthorised access to boarding rooms from the underground parking and building entrance.
- 6.29. House rules are clearly documented and visible to residents. This includes making residents aware of their rights and responsibilities.
- 6.30. Ensure the Plan of Management addresses issues relating to behaviour expectations of residents and consequence of non-compliance by residents.

-END-

Canterbury Bankstown Local Planning Panel - 15 December 2021

ITEM 2	DA-867/2020 – 76 & 76A Brancourt Avenue, Yagoona Demolition of existing building, construction of a three-storey boarding house with 33 rooms and basement car parking
FILE	DA-867/2020 – Darani / Bankstown
ZONING	R4 High Density Residential
DATE OF LODGEMENT	28 September 2020
APPLICANT	Ghazi Al Ali Architects
OWNERS	Rebert & B & A Pty Ltd
ESTIMATED VALUE	\$3,298,902
AUTHOR	Planning

SUMMARY REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel ('the Panel') in accordance with Schedule 2 of the Ministerial Direction 'Local Planning Panel Directions – Development Applications' issued under section 9.1 of the *Environmental Planning and Assessment Act, 1979*. The subject application is defined as a *contentious development* being one which has received ten or more unique submissions by way of objection.

DA-867/2020 proposes the demolition of existing structures and construction of a three-storey boarding house over one basement level of parking and services, comprising 33 boarding house rooms including one boarding house manager room with one communal room.

The application been assessed against amongst other things, State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55), State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65), State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007), State Environmental Planning Policy No 19—Bushland in Urban Areas, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, Draft Canterbury

Bankstown Local Environmental Plan 2020, Draft State Environmental Planning Policy (Housing) 2021, Bankstown Local Environmental Plan 2015 (BLEP2015), Bankstown Development Control Plan 2015 (BDCP 2015) and fails to comply with three setback controls of BDCP 2015.

The application was twice advertised in accordance with the Canterbury Bankstown Community Participation Plan 2019 for a period of 21 days ending on 11 November 2020 and 17 June 2021. 15 unique submissions objecting to the proposal were received by Council relating to a number of matters including privacy, parking and security. The concerns raised in the submissions have been addressed in this report and do not warrant refusal or further modification of the development.

POLICY IMPACT

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

FINANCIAL IMPACT

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

RECOMMENDATION

That the Panel approve the development subject to the conditions of consent included in this report.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

SECTION 4.15 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is legally known as Lots A and B of DP 383550 and is commonly known as 76 and 76A Brancourt Avenue, Yagoona. The combined site is a regular triangular shaped property currently zoned R4 High Density Residential. The site is located on the western side of the street approximately 30 metres south of the street's intersection with Carmen Street. The site has an area of 1,068.8m² with a frontage of 53.95 metres to Brancourt Avenue. The land falls from north to south and from Brancourt Avenue to the rear (west) towards the adjoining railway line.

The site contains two (2) single storey fibro dwelling houses with associated outbuildings. The surrounding development consists of residential flat buildings immediately to the north and across Brancourt Avenue to the east. To the south and west is Sydney Trains' rail corridor serving the T3 (Liverpool and Lidcombe) Line which is zoned SP2 Rail Infrastructure Facility. Across the rail corridor are allotments zoned R2 Low Density Residential containing dwelling houses.



Figure 1: Subject Site. Source: NearMap



Figure 2: Site Context. Source: NearMaps

PROPOSED DEVELOPMENT

The Development Application proposes:

- Demolition of existing site structures and removal of existing vegetation, with retention of existing street trees, and
- Construction of a three storey plus one basement level structure for use as a boarding house, comprising of the following components:
 - One basement level with seven (7) motorcycle parking spaces, 17 car parking spaces (including two (2) for accessible users), waste storage area and a service room, and
 - Ground floor with nine (9) double-boarding house rooms including two (2) adaptable rooms and one (1) manager room (all with ground level open space areas), central lobby with seven (7) bicycle parking spaces, a communal room and the development's bin storage area. The ground floor also provides for vehicular access to the basement level, and
 - First floor with eleven (11) double-boarding house rooms and one (1) single-boarding house room, and
 - Second floor with eleven (11) double-boarding house rooms and one (1) single-boarding house rooms, and
 - Non-trafficable rooftop with two (2) ranges of skylight protrusions above the roof line.

Statutory Considerations

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

- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)
- State Environmental Planning Policy No 19—Bushland in Urban Areas
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Draft State Environmental Planning Policy (Housing) 2021
- Bankstown Local Environmental Plan 2015 (BLEP2015)
- Bankstown Development Control Plan 2015 (BDGP 2015)

SECTION 4.15 ASSESSMENT

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

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

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

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

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

The subject site has long been used for residential purposes. A Stage 2 Detailed Site (contamination) Investigation was submitted by the applicant and reviewed by Council's Environmental Health Officer. The report found the site was suitable for the proposed development and the associated land-use. In response, Council's Environmental Health Officer recommended the imposition of a number of conditions of consent, which have been included in the draft set of conditions that accompanies this report.

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

Division 3 of SEPP (ARH) 2009 provides controls for boarding house developments. The table below provides a summary of the controls set out in this Policy in regard to this development typology:

State Environmental Planning Policy (Affordable Rental Housing) 2009			
Clause	Requirement / Provision	Comment	Compliance
26 Land to which Division applies	a) Zone R1 General Residential, b) Zone R2 Low Density Residential, c) Zone R3 Medium Density Residential, d) Zone R4 High Density Residential, e) Zone B1 Neighbourhood Centre, f) Zone B2 Local Centre, g) Zone B4 Mixed Use.	Proposal is on land zoned R4 High Density residential; therefore, the instrument applies.	Y
27(1) Development to which Division applies	Purposes of boarding houses	The proposed development is a boarding house.	Y
29(1) Standards that cannot be used to refuse consent	Cannot refuse on density or scale if FSR is not more than <ul style="list-style-type: none"> Existing maximum FSR for residential accommodation If no residential accommodation is permitted, existing maximum FSR for any permitted land use Where RFBs are permitted, existing FSR plus: <ul style="list-style-type: none"> 0.5:1 if FSR is 2.5:1 or less 20% of existing FSR if 2.5:1 or more. 	An RFB is a permitted development typology within the zone. A maximum FSR of 1:1 applies in a R4 zone. The existing maximum FSR + 0.5 = 1.5:1 Application proposed 0.95:1 FSR (1,011m ² / 1,068.8m ²)	Y
29(2) Standards that cannot be used to refuse consent	a) Building height: not more than the maximum permitted b) Landscaped area: the landscape treatment of the front setback is compatible with streetscape	a) Proposal complies with the 13-metre maximum permissible building height with a maximum height of 10.71 metres above existing natural ground level.	Y

	<ul style="list-style-type: none"> c) Solar access: communal room to receive 3 hours between 9am and 3pm d) Private open space: <ul style="list-style-type: none"> i. 20m² with minimum 3 metre dimension for boarders ii. 8m² with minimum 2.5 metre dimension for manager e) Parking: <ul style="list-style-type: none"> i. Social housing provider in accessible area: 0.2 spaces per boarding room ii. Social housing provider not in an accessible area: 0.4 spaces per boarding room iii. General: 0.5 spaces per dwelling, and iv. Maximum 1 space per employee f) Accommodation size: <ul style="list-style-type: none"> i. Minimum of 12m² per single room ii. Minimum of 16m² per double room 	<ul style="list-style-type: none"> b) Landscaping within the front setback area is compatible with the established streetscape which is dominated by RFBs c) A minimum of 3 hours of solar access is achieved to the ground floor communal room. d) Private open space in an area of 93m² is provided for use by the boarders, while an area of 18m² is provided for the manager at ground level. e) 17 car parking spaces are provided resulting in 0.5 spaces per boarding room (when you include the boarding house managers room) f) 31 double rooms with a minimum size of 16m² and two (2) single rooms with a minimum size of 12m² are proposed. 	
29(3) Standards that cannot be used to refuse consent	May have private kitchen or bathroom facilities in each boarding room	Kitchens and bathrooms are provided in each boarding room.	Y
30(1) Standards for boarding houses	<ul style="list-style-type: none"> a) 1 communal room for 5 or more boarding rooms b) Boarding rooms not more than 25m² c) No more than 2 lodgers per room d) Adequate bathroom and kitchen facilities e) A boarding room for a boarding house manager is to be provided where the development can accommodate 20 or more lodgers f) Repealed 	<ul style="list-style-type: none"> a) One (1) communal room is provided for use. b) Boarding rooms are all under 25m² in gross floor area. c) A condition of consent is recommended to be imposed restricting the number of lodgers within each boarding room to no more than 2 for double rooms and 1 for single rooms. d) Bathrooms and kitchens are provided within each boarding room. 	Y

	g) On commercial zoned land, no residential purposes permitted on the ground floor h) One bicycle and motorcycle parking space to be provided per 5 rooms	e) A boarding room for a boarding house manager has been provided. f) Repealed g) N/A h) Bicycle and motorbike parking provided per required rate with 7 motorbike and 7 bicycle spaces provided.	
30A Character of local area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Development is consistent with the character of the area, with the proposed built form, the bulk and scale and the building mass being comparable to that of the adjoining and nearby residential developments.	Y

As the above table demonstrates, the proposal complies with requirements of SEPP (ARH) 2009.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)

The Bankstown Development Control Plan 2015, Part B1 Clause 10.29 states the following:

Council applies the design quality principals of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide to boarding houses. This includes buildings that are two storeys or less, or contain less than four dwellings.

This is used by Council to help guide the design of boarding houses to delivery orderly development outcomes. Accordingly, the development has been assessed against the relevant provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, and an assessment against the Design Quality Principles contained in Schedule 1 and the Apartment Design Guide (ADG) has been undertaken.

The proposal does not meet a number of design criteria set by the ADG, specifically with regard to studio apartments, which is considered to be the most comparable development typology to a boarding house room. These deficiencies relate to apartment size, apartment dimension, private open space and provision of in-unit storage. Further, the proposal fails to satisfy a number of design criteria set for all types of development typologies to which SEPP No 65 is applicable. These pertain to the provision of sufficient communal open space, building separation, cross ventilation.

With regard to building separation, while the proposal complies with the requirements set in the Bankstown Development Control Plan 2015 (outlined later within this report) it lacks the 6-metre setback to the northern boundary required under the ADG. In considering this shortfall, the proposal includes privacy louvres affixed to each north-facing balcony of this elevation for both sun screening as well as the obstruction of direct overlooking into apartments on the adjoining property, which is considered a reasonable outcome.

Notwithstanding the non-compliances, the proposal provides for an appropriate level of internal and external amenity for the future occupants of the development as well as the adjoining residential properties. The proposal is considered to be well-designed for use as a boarding house, providing all residents with suitably sized rooms in accordance with the SEPP (ARH) 2009, access to outdoor areas and suitably dimensioned communal rooms and open space.

State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)

Division 15, Subdivision 2 *Development in or adjacent to rail corridor and interim rail corridors – notification and other requirements* of State Environmental Planning Policy (Infrastructure) 2007 through Clause 85 requires that the consent authority take into consideration any response received by Sydney Trains (the rail authority) prior to granting consent. Consideration by the rail authority of the proposal is required for a development which will either have an impact on rail safety, involve placing of metal finishes on a structure near a rail corridor using electric trains, involves the use of a crane above of a rail corridor or is located within 5 metres of an exposed overhead electricity power line. The subject development application proposes the construction of a structure within 5 metres of the railway corridor's overhead electricity supply and was referred to Sydney Trains for comment. Sydney Trains also considered the relevant provisions of Clause 86 *Excavation in, above, below or adjacent to rail corridors*, as the proposal seeks authorisation for a basement level for parking and services.

Sydney Trains has provided the consent authority with its concurrence for the development, subject to a number of conditions which have been incorporated into the provided draft consent conditions attached with this report.

State Environmental Planning Policy No 19—Bushland in Urban Areas

The proposal has been assessed against the relevant aims and objectives of State Environmental Planning Policy No 19—Bushland in Urban Areas which seeks to protect remaining native vegetation within urban areas. It is considered that the site does not contain remnant native vegetation and is consistent with the aims of the instrument.

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

In accordance with BASIX SEPP, a BASIX Certificate accompanied this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy the objectives of the SEPP. The BASIX Certificate requirements have been incorporated into the draft consent conditions attached with this report.

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

The aims of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 are to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation. The SEPP applies to the subject site as the applicant is seeking to remove trees from the site (that requires the consent of Council).

The subject application seeks approval for the removal of shrubs and trees of various species around the combined properties, including three (3) trees that are not exempt under the Bankstown Development Control Plan 2015 however have been assessed by Council's Tree Management Officer as being suitable for removal and replacement, subject to conditions of consent. It is considered that the proposal satisfies the provisions of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

The subject site is located within the Georges River Catchment and accordingly Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (GMREP 2) applies. The proposed works are consistent with the relevant planning principles outlined in the GMREP 2, and the proposal does not include any of the specific development types listed under the 'planning control table'.

Bankstown Local Environmental Plan 2015

The proposal has been assessed as being consistent with the aims of the Plan, with particular regard to the provision of housing and concentration of development in areas accessible to transport as well as with the objectives of the relevant R4 High Density Residential land use zone with regard to the provision of housing needs within a high density environment. Further, the following clauses of the Bankstown Local Environmental Plan 2015 were taken into consideration:

Clause 4.3 – Height of buildings

Clause 4.4 – Floor Space Ratio

Clause 5.21 – Flood Planning

Clause 6.2 – Earthworks

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of Bankstown Local Environmental Plan 2015. A more detailed assessment against the zoning, environmental and numerical development standards contained in the abovementioned clauses is provided below.

Bankstown Local Environmental Plan 2015			
Clause	Requirement / Provision	Comment	Compliance
Cl. 4.3 Height of buildings - Height of Buildings Map	Height of Building: 13.0 metres	10.71m maximum building height as measured from rooftop windows to existing NGL	Y
Cl. 4.4 Floor space ratio - Floor Space Ratio Map	Maximum FSR: 1:1	0.95:1 FSR proposed (1,011m ² / 1,068m ²)	Y
Cl. 5.21 Flood Planning	(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.	Referral provided by Council's Development Engineer who has provided conditions which have been included in the draft set of conditions that accompanies this report.	Y
Cl. 6.2 Earthworks	To ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	Earthworks are considered to remain consistent with the contours of the site and are not expected to provide for detrimental impacts on environmental functions or on adjoining properties or the adjacent rail corridor.	Y

As demonstrated above, the proposal complies with all relevant development controls contained in BLEP 2015.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]**Draft State Environmental Planning Policy (Housing) 2021**

Pursuant to pursuant to section 4.15(1)(a)(ii) of the *EPA Act 1979*, consent authorities are now required to take into consideration the provisions of draft SEPP Housing 2021 when assessing development applications for various types of housing. The draft instrument proposes a savings provision whereby applications lodged prior to the commencement of the instrument will be required to consider the SEPP but would not be bound by it (continuing to have the same authority as a proposed instrument).

The draft instrument makes a number of changes to the assessment of boarding house applications, including requiring minimum landscaping areas for boarding houses in Zones R2 and R4, minimum lot size and setback requirements, minimum separation requirements for boarding houses exceeding 3 storeys, minimum solar access and area requirements for the communal living room, minimum requirement for at least 20% of the total site area to be provided as communal open space, minimum car parking, bicycle and motorcycle parking requirements, maximum of 12 boarding rooms for boarding houses in Zone R2, permitting a bonus floor space ratio of 25% for boarding houses proposed in zones in which residential flat buildings are permitted and restricting minimum and maximum floor area requirements for boarding rooms.

The development is considered to be consistent with aims of the instrument and with the changes to boarding house developments proposed through the Draft EPI.

Draft Canterbury Bankstown Local Environmental Plan 2020

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 reviewed by the Department of Planning. While the draft instrument proposes the introduction of some additional provisions, in the most part, 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 respect to the proposed development the proposal is considered to be consistent with the aims of the draft instrument (being identical to the provisions contained in the current applicable local environmental plan).

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

The following section provides assessment and compliance tables with a summary of the development application against the applicable controls contained within Bankstown Development Control Plan 2015 - Part B1 Residential and Part B5 – Parking.

Bankstown Development Control Plan 2015			
Clause	Requirement / Provision	Comment	Compliance (Y/N)
PART B1 - RESIDENTIAL			
10.3 Storey limit	The storey limit in Zone R3 and in Zone R4 is 3 storeys. Despite this clause, up to 4 storeys provided the allotment is located within a specified area	3-storeys proposed, over one level of basement car parking	Y
10.12 Setbacks in Zones R3 and R4	The minimum setback for a building wall to the primary road frontage is 6 metres.	<p>Minimum 6 metre setback to the building wall is proposed.</p> <p>A bin storage area has been positioned adjacent to the front façade of the building but is not considered part of the building wall. The bin area has been designed to integrate with the development to provide for an appropriate outcome, while still being shielded by quality landscaping from the street.</p>	Y
10.15 Setbacks in Zones R3 and R4	For a building with 3 or more storeys, the minimum setback to the side and rear boundaries of the allotment is 4.5 metres provided the average setback is 0.6 multiplied by the wall height.	<p>With a maximum wall height of 9.0 metres along the northern elevation, the average setback is required to be 5.4 metres (9 x 0.6). The proposal maintains a 5.4-metre-deep northern setback to the northern property boundary when measured from external building walls, with minor encroachments to 5.0 metres for balcony elements. Both the average setback and the minimum setback achieve compliance.</p> <p>With a maximum wall height of 10.3 metres along the southwestern elevation, the average setback is required to be 6.18 metres (10.3 x 0.6). The proposal maintains a 1.73-metre deep southwestern setback to the</p>	N

		southwestern property boundary when measured from external building walls, with a minimum 3-metre setback to habitable rooms. A discussion of this non-compliance follows.	
10.16 Setbacks in Zones R3 and R4	2-metre basement setback to side/rear boundaries	1.73 metre setback to the basement level is proposed on the southwest elevation, with 2.0 metre setbacks along the northern and eastern elevations. A discussion of this non-compliance follows.	N
10.18 Private open space	Communal area of at least 20m ² with a minimum dimension of 3 metres Boarding house manager area of at least 8m ² with a minimum dimension of 2.5 metres adjacent to that accommodation.	95m ² of communal open space and 17.69m ² of private open space for manager are provided on the ground floor. All comply with required dimensions	Y
10.19 Private open space	Private open space is behind the front building line. This clause does not apply to any balconies.	Areas of private open space are provided forward of the front building line. A discussion of this non-compliance follows.	N
10.20 Access to sunlight	At least 70% of boarding rooms must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice.	19 of the 33 rooms receive solar access through windows, while a further 5 rooms receive access through rooftop clearstory windows for a total of 24 rooms out of 33 which represents a 73% compliance rate.	Y
10.21 Access to sunlight	One communal must receive a minimum of 3 hours direct sunlight between 8.00am and 4.00pm at the mid-winter solstice.	Communal open space achieves solar access from 1pm to 4pm at mid-winter	Y
10.22 Access to sunlight	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.	Nil impacts on adjoining properties, including properties across railway corridor as demonstrated through provided shadow plans	Y

10.23 Access to sunlight	50% of on site and adjoining private open spaces have at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox.	Nil impacts on adjoining properties, including properties across railway corridor as demonstrated through provided shadow plans.	Y
10.25 Visual privacy	Direct overlooking into adjoining living areas is restricted through increased sill height, window placement and screening	North-facing balconies provided with moveable privacy screening and a 10-metre building separation – considered suitable for a high-density environment.	Y
10.26 Visual privacy	Direct overlooking into adjoining private open spaces is restricted through increased sill height, window placement and screening	North-facing balconies provided with moveable privacy screening and a 10-metre building separation – considered suitable for a high-density environment	Y
10.30 Building design	<ul style="list-style-type: none"> • If 5 or more boarding rooms, at least one communal living room; and • if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: <ul style="list-style-type: none"> ▪ 12m² single lodger, or ▪ 16m² in any other case; and • no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m²; and • max 2 adult lodgers per room; and • adequate bathroom and kitchen facilities will be available; and • if 20 or more lodgers, a boarding room or on-site dwelling will be provided for a boarding house manager; and 	<ul style="list-style-type: none"> • One satisfactory communal area provided, which has been assessed as compliant with relevant provisions of SEPP (ARH) 2009 • Double boarding rooms are all under 25m² in area with single boarding rooms under 16m² in area. • A condition of consent is recommended to be imposed restricting the number of lodgers within each boarding room to no more than 2 for double rooms and 1 for single rooms. • Bathroom and kitchen facilities are provided within each room • A boarding room for a boarding house manager has been provided. • Bicycle and motorbike parking provided per required rate with 7 motorbike and 7 bicycle spaces provided 	Y

	<ul style="list-style-type: none"> at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms. 		
10.35 Building design	1 adaptable unit per 50 boarding rooms in accordance with AS 4299–Adaptable Housing.	Two (2) adaptable units provided within the development being rooms being A06 and A08 on the ground floor.	Y
10.43 Safety	<p>Boundary with a railway corridor or an open stormwater drain, setback a minimum 1.5 metres from that boundary. The setback distance must be:</p> <ul style="list-style-type: none"> treated with hedging or climbing vines to screen the building; and the hedging or climbing vines must be planted prior to the completion of the development using a minimum 300mm pot size; and the planter bed area must incorporate a commercial grade, sub-surface, automatic, self-timed irrigation system; and the allotment must be fenced along the boundary using a minimum 2-metre-high chain-wire fence; and the fence provides an appropriate access point to maintain the landscaping within the setback area; and where a car park adjoins the boundary, hedging or climbing vines must also be planted along the sides of any building or solid fence on the allotment that face the railway corridor or open stormwater drain. 	Sydney Trains concurrence provided	Y

PART B5 - PARKING			
2.1 Off-street parking spaces	Boarding house development: 0.5 spaces per room and 1 space per employee	33 rooms plus one manager boarding room x 0.5 = 17 spaces. 17 spaces have been provided within the basement	Y

The following non compliances were identified with the provisions contained within Section 10 of Part B1 of the Bankstown Development Control Plan 2015;

10.15 *For a building with 3 or more storeys, the minimum setback to the side and rear boundaries of the allotment is 4.5 metres provided the average setback is 0.6 multiplied by the wall height.*

Comment: With a 10.3 metre maximum wall height along the southwest elevation, the average required side/rear setback is to be 6.18 metres, with a minimum setback of 4.5 metres. The southwest boundary of the site abuts the Sydney Trains rail corridor and is provided a minimum basement setback of 1.72 metres with a minimum setback to a habitable room on above-ground floors of 3 metres.

The intent of this control to achieve suitable building separation between residential accommodation. The closest residential properties to this boundary in excess of 30 metres away, across the rail corridor. It is not considered the non-compliant setback will result in adverse amenity impacts as the proposal has been assessed as suitable by Sydney Trains as well as Council's Environmental Health Officer with regard to acoustic attenuation. The setback is proposed to be suitably landscaped and is wide enough to provide access around the development site.

10.16 *The minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres.*

Comment: As noted above, the basement provides an intrusion into the required 2 metre side-rear setback along the southwest elevation of the development, abutting the railway corridor. This incursion is for stair egress from the basement and is not considered to provide for detrimental impacts on the side setback. The basement proposes compliant setbacks to other boundaries, and it is considered the encroachment for basement egress at this point is a suitable outcome.

10.19 *Development must locate the private open space behind the front building line. This clause does not apply to any balconies where it is used to provide articulation to the street facade.*

Comment: The proposal includes private open spaces on the ground floor, for rooms facing Brancourt Avenue. Although these private open areas are not required to be provided for boarding houses, they result in a better amenity outcome for the future occupants. These open spaces sit within the required 6 metre setback, reaching a depth of 3 metres from the building wall. It is considered that approval of this variation would remain consistent with previous approvals for apartment buildings within the LGA, where private terraces have been located within the front setback to provide articulation and allow for passive surveillance of the street while still maintaining a suitably landscaped front setback.

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

No planning agreement has been entered into.

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

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

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

The development is not considered to provide for undue impacts on the natural and built environments with no recognisable social or economic impacts on the locality.

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

The site is considered suitable for the development.

Submissions [section 4.15(1)(d)]

The application was twice advertised in accordance with the Canterbury Bankstown Community Participation Plan 2019 for a period of 21 days ending on 11 November 2020 and 17 June 2021. Fifteen (15) unique submissions objecting to the proposal were received by Council. Responses to the submissions lodged are provided below.

Objection: *Insufficient Parking*

Comment: The proposal complies with the minimum car parking requirements as set out within the Bankstown Development Control Plan 2015 in addition to the controls contained within Clause 29(2)(e) of SEPP (ARH) 2009.

Objection: *Future occupants of boarding rooms*

Comment: This is not a matter for consideration pursuant to Section 4.15(1) of the EP&A Act 1979.

Objection: *Asbestos uncovered during works*

Comment: Conditions of consent regarding the safeguarding of potential contaminated and dangerous materials are included within the recommended conditions of consent.

Objection: Dumped rubbish

Comment: The illegal dumping of rubbish is not a matter for consideration with respect to this application. The applicant has provided sufficient on-site waste storage facilities to cater for the demand generated by the development. The developer will arrange for the suitable collection of waste from the site upon the commencement of the operation of the boarding house development.

Objection: Permissibility of development

Comment: A boarding house development is a permissible form of development within the R4 High Density Residential zone, having regard to the provisions contained within the Bankstown Local Environmental Plan 2015.

Objection: Parking infringements

Comment: Parking infringements of local residents is not a matter for consideration under Section 4.15 of the EP&A Act 1979.

Objection: Illegal / Obstructive parking

Comment: As per above, illegal parking is not a matter for consideration under Section 4.15 of the EP&A Act 1979.

Objection: Traffic generation

Comment: Brancourt Avenue and the surrounding streets have sufficient capacity to accommodate the additional vehicle movements generated by the development.

Objection: Driver / Pedestrian safety

Comment: The behaviour of future occupants / motorists is not a matter for consideration under Section 4.15 of the EP&A Act 1979.

Objection: Increase in population of schoolchildren

Comment: The potential increase in attendance at local schools is not a matter for consideration under Section 4.15 of the EP&A Act 1979.

Objection: Strain on services

Comment: The developer is required to provide a financial contribution to Council prior to construction commencing. This contribution fund is used to enhance Council-provided services, including but not limited to open spaces and recreational facilities, roads and traffic facilities, community facilities and public domain improvements.

Objection: Potential for increase in crime

Comment: The potential increase in crime is not a matter for consideration under Section 4.15 of the EP&A Act 1979, though the application was submitted with a Plan of Management with an on-site manager.

Objection: Privacy

Comment: A number of changes were made to the proposal to address potential privacy impacts on adjoining dwellings. These include the inclusion of moveable screening elements on all north-facing balconies. Further, the building separation between the proposal and existing structures meets or exceeds the standards required for building separation in NSW in order to provide a sense of privacy surrounding residents and future occupants of the proposal.

Further, the proposal has been assessed as compliant with regard to the visual privacy controls of the Bankstown Development Control Plan 2015.

Objection: View loss

Comment: The locality does not contain any identified view corridors that would require to be retained or protected. As such, while some loss of view or general outlook may be experienced, the development complies with height, floor space ratio and setback controls and is considered suitable for the site.

Objection: Availability of street parking

Comment: The report identifies that the applicant has provided sufficient on-site car parking.

Objection: Impact on property prices

Comment: No evidence has been presented to support the claim that the development of a boarding house will have an impact on nearby property prices.

Objection: Noise pollution

Comment: The development application was accompanied by an acoustic report, which was reviewed by Council's Environmental Health Officer. Conditions of consent have been imposed to limit hours of activity and potential sources of noise.

Objection: Overshadowing

Comment: The proposal has been assessed as compliant with the overshadowing controls found within the Bankstown Development Control Plan 2015. The vast majority of the shadows cast by the development will extend over the adjoining rail corridor in the morning and over Brancourt Avenue in the afternoon.

Objection: Vegetation removal

Comment: The landscaping plan has been assessed by Council's Tree Management Officer who has provided conditions of consent for the removal and replacement of vegetation on site.

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

Approval of the development would be consistent with the wider public interest

CONCLUSION

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act 1979*, which required, amongst other things, an assessment against the provisions contained within State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Affordable Rental Housing) 2009, 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 Canterbury Bankstown Local Environmental Plan 2020, Draft Housing SEPP 2021 and Bankstown Development Control Plan 2015.

The proposal seeks consent for a three (3) storey boarding house development and proposes some minor variations to Bankstown Development Control Plan 2015. In particular, the report identifies and discusses the proposed non-compliances with the setbacks on southwestern elevation as well as the inclusion of private open space within the front setback.

Despite the non-compliances proposed with the application, it is considered that the development application is an appropriate outcome in the context of the surrounding locality and has been recommended for approval, subject to the draft conditions attached to this report.

RECOMMENDATION

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

CONDITIONS OF CONSENT**1. Approved Development.**

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

Plan No.	Plan Name	Date	Rev.	Prepared By
A-1010	Site Plan	7/08/2020	A	Ghazi Al Ali Architect Pty Ltd
A-1102	Demolition Plan	7/08/2020	A	Ghazi Al Ali Architect Pty Ltd
A-1201	Basement	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
A-1202	Ground Floor	1/11/2021	C	Ghazi Al Ali Architect Pty Ltd
A-1203	Level 01	1/11/2021	C	Ghazi Al Ali Architect Pty Ltd
A-1204	Level 02	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
A-1205	Roof	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
A-1301	Elevations	1/11/2021	C	Ghazi Al Ali Architect Pty Ltd
A-1302	Elevation	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
A-1401	Sections	1/11/2021	C	Ghazi Al Ali Architect Pty Ltd
A-1510	Sections – Train/Power Lines	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
A-1511	Sections – Power Lines	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
A-1512	Ground Floor Plan – Train/Power Line	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
A-2201	Material Schedule	22/04/2021	B	Ghazi Al Ali Architect Pty Ltd
1	Hardscape Plan	09.11.21	D	Conzept Landscape Architects
2	Landscape Plan	09.11.21	D	Conzept Landscape Architects
3	Specification & Detail	09.11.21	D	Conzept Landscape Architects

Document No.	Document Name	Date	Prepared By
-	Plan of Management	7 August 2020	Morphology Design Associated Pty Ltd
170848-02L-DD	Noise Assessment – Development Application (DA) Phase Proposed Residential Boarding House Development 76-76A Brancourt Avenue, Yagoona	10 August 2020	Acoustic Consulting Engineers Pty Ltd
E19036BAN-R02F	Stage 2 Detailed Site Contamination Investigation, 76-76A Brancourt Avenue, Yagoona, NSW, 2043'	5 May 2021	Geo-environmental Engineering

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

The approved plans are to be amended as follows:

- a. The approved landscaping plan is to be amended to reflect the tree removal and protection conditions contained within this Determination Notice. An amended landscape plan is to be approved by the principal certifier prior to the issue of a construction certificate.
- 1.2. The development is approved for 33 boarding rooms for a maximum capacity of 63 persons (inclusive of manager).
- 1.3. Subdivision of the boarding house is not permitted.
- 1.4. Consolidation of the existing allotments must be registered by NSW Land Registry Services prior to the issue of any occupation certificate.

2. Conditions of Transport for New South Wales (Sydney Trains).

The correspondence issued by Sydney Trains dated 8 October 2021, reference number **CNR - 13487**, forms part of this consent. Compliance with the conditions contained within 'Attachment F' and as noted in conditions Section 2 or 2.1-2.26 of this consent, must be complied with as required at the relevant stage throughout the development.

- 2.1. Prior to the issue of a Construction Certificate, the Applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains' representative.

- 2.2. The Applicant shall prepare an acoustic assessment demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report. A copy of the report is to be provided to the Principal Certifying Authority and Council prior to the issuing of a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the acoustic assessment are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- 2.3. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- 2.4. The Applicant shall provide a Geotechnical Engineering report to Sydney Trains for review by Sydney Trains' Geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains Facilities by the development.
- 2.5. If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 2.6. No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.

- 2.7. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 2.8. Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- 2.9. During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
- 2.10. Excess soil is not allowed to enter, be spread or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.
- 2.11. The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the railway corridor unless prior written approval has been obtained from Sydney Trains.
- 2.12. Sydney Trains advises there is a 33kV High Voltage Aerial Transmission Line in in close proximity to the proposed works. All works within 6 metres of the nearest transmission line conductor must comply with:
 - a. ISSC 20 – Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure.
 - b. The Safe Approach Distances (SADs) in the Sydney Trains Document titled “SMS-06-GD-0268 – Working Around Electrical Equipment”.

In addition, all Landscaping shall be in accordance with the Sydney Trains High Voltage Powerline Tree Management Plan.

- 2.13. Prior to the commencement of any works appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

- 2.14. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary or design and construction of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- 2.15. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.
- 2.16. Prior to the issuing of a Construction Certificate, the following rail specific items are to be submitted to Sydney Trains for review and endorsement:
- a. Machinery to be used during excavation/construction
- 2.17. The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.
- 2.18. Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- 2.19. The Applicant/Developer shall not at any stage block rail corridor access gate/s and should make provision for easy and ongoing 24/7 access by rail vehicles, plant and equipment to support maintenance and emergency activities.
- 2.20. No work is permitted within the rail corridor, or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, or access into the rail corridor, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant.

- 2.21. Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to by TAHE (Transport Asset Holding Entity). The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied
- 2.22. Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.
- 2.23. Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.
- 2.24. The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:
- a. oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
 - b. acts as the authorised representative of the Applicant; and
 - c. is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
- 2.25. Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
- 2.26. Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains external party interface team. In this instance the relevant interface team is Central Interface and they can be contacted via email on Central.Interface@transport.nsw.gov.au.

3. Conditions to be Satisfied Before the Issue of a Construction Certificate.

- 3.1. Development Contributions of \$235,979.00 must be paid for this development before the issue of any construction certificate. The contributions are levied under Bankstown Development Contributions Plan 2019 and Section 7.11 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development. The development contribution will be allocated to the following purposes under the contributions plan:

Open space and recreation	\$148,440.00
Roads and traffic facilities	\$28,443.00
Community facilities	\$17,583.00
Public domain facilities	\$39,396.00
Plan administration and management	\$2,117.00

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. Landscaping shall be installed in accordance with the approved landscape plan.
- 3.3. The landscape plan shall include the provision for the replacement of all boundary fencing where such fencing is substandard. 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. Fencing within 10 metres of the rail corridor is to comply with TfNSW requirements.

- 3.4. 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.
- 3.5. Approval is granted for the removal of the following trees:
- Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;
 - Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;
 - Any tree species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order;
 - Any of the following tree/s:

Tree Species	Location
1 x <i>Cinnamomum camphora</i> (Camphor laurel)	In the front right hand corner of no. 76A Brancourt Avenue
2 x <i>Ligustrum lucidum</i> (Broad leaf privet)	In the rear back right hand corner of no. 76A Brancourt Avenue

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.

- 3.6. 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:
- Council's development control plan,
 - the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
 - 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.

- 3.7. 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

- 3.8. 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.

- 3.9. 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 TAPIN™.

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.

- 3.10. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.

- 3.11. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](https://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 3.12. 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 5.5 metres at the property boundary.
 - Stormwater connection to Council stormwater pit.
 - Reconstruction of footpath along the site frontage to council satisfaction.
 - Removal of all redundant driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
 - Repair of any damage to the public road including the footway occurring during building works, and
 - 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.
- 3.13. 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.
- 3.14. 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 Carparking and Council's development control plan.
- 3.15. 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.
- 3.16. 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.
- 3.17. 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.

Drawing number	Revision	Date	Prepared By
SW100	E	13.05.2021	SGC Consulting Engineers
SW200	E	13.05.2021	SGC Consulting Engineers
SW201	E	13.05.2021	SGC Consulting Engineers
SW202	E	13.05.2021	SGC Consulting Engineers
SW203	E	13.05.2021	SGC Consulting Engineers
SW204	E	13.05.2021	SGC Consulting Engineers
SW300	E	13.05.2021	SGC Consulting Engineers
SW400	E	13.05.2021	SGC Consulting Engineers

The above listed stormwater management plans shall be amended to ensure the following:

- a. The proposed On-Site Detention is undersized and shall be increased to a minimum of 5m³.
- b. Additional 20% capacity is to be provided to allow for vegetation growth should the OSD be provided in an above ground system.

- 3.18. 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.
- 3.19. 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.
- 3.20. The basement access stairs adjacent to the lift shall be protected from flooding up to the 1% AEP plus 0.3m freeboard, so that no flood water would access the basement in the event of flooding.
- 3.21. 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.
- 3.22. 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.
- 3.23. 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.
- 3.24. A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.
- 3.25. Prior to any works on-site, all household bins are to be returned to Council.
- 3.26. A design certificate and detailed plans are to accompany any construction certificate application which demonstrate that the waste storage room on the Ground Floor has been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
 - b. The floors must be finished so that it is non-slip and has a smooth and even surface;
 - c. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
 - d. The walls must be constructed of solid impervious material;
 - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
 - f. Walls, ceiling and floors must be finished in a light colour;
 - g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
 - h. A self-closing door openable from within the room;
 - i. Must be constructed to prevent the entry of birds and vermin;
 - j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
 - k. Any doorways must be minimum 2m wide; and
 - l. Designed with a minimum floor space of 25m².
- 3.27. A design certificate and detailed plans are to accompany any construction certificate application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:
- a. Direct and less than 10 metres;
 - b. Minimum 2m wide hard surface (including gate openings);
 - c. Non-slip, free from obstacles and steps;
 - d. Not within a driveway or carpark;
 - e. A maximum grade of 1:30 (3%); and
 - f. Layback installed at the nominated collection point.
- 3.28. A design certificate and detailed plans are to accompany any construction certificate application which demonstrates that the bulky waste storage room on the Basement has been designed to be constructed in accordance with the following requirements:
- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
 - b. The floors must be finished so that it is non-slip and has a smooth and even surface.
 - c. The walls must be constructed of solid impervious material;
 - d. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
 - e. The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;

- f. Walls, ceiling and floors must be finished in a light colour;
- g. Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock;
- h. A self-closing door openable from within the room;
- i. Must be constructed to prevent the entry of birds and vermin;
- j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- k. All doorways must be 2m wide; and
- l. Designed with a minimum floor space of 10m².

3.29. 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 TfNSW (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.

- 3.30. 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.

- 3.31. 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.

- 3.32. 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.
- 3.33. Access to all communal and public areas of the basement and ground floor of the development, including communal open spaces, are to be designed and constructed in accordance with the requirements of Disability (Access to Premises — Buildings) Standards 2010.
- 3.34. The boarding house must be designed, constructed and operated in accordance with:
- a. *Local Government (General) Regulation 2005, Schedule 2, Part 1 Standards for places of shared accommodation;*
 - b. *Boarding Houses Act 2012; and*
 - c. *Boarding Houses Regulation 2013.*

The principal certifier shall ensure prior to the issue of any construction certificate that all construction plans abide by the relevant requirements of the above.

- 3.35. 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.

- 3.36. In the event that a substation is required, the size and location of the substation is to be submitted for approval to Council and Ausgrid, prior to the issue of any Construction Certificate or the commencement of use, whichever is earlier. A substation has not been approved and if required details must be submitted to Council.

The substation must not be situated within any landscaped area, must not be situated in any area visible from the public domain and must be integrated into the building.

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier an area of land within the building to enable an electricity substation to be installed.

- 3.37. Hydrant boosters are to be integrated / incorporated into the built form and design of the development.
- 3.38. Separate approval is required for any heat shield and/or associated fire assembly structures/facilities not shown on the approved plans.
- 3.39. The development is to be carried out in accordance with the commitments shown on the BASIX Certificate. The BASIX commitments approved with this Development Application are to be reflected in the Construction Certificate plans and specifications. Any proposed changes to the BASIX commitments after the Construction Certificate has been issued will require an updated BASIX Certificate and a new Construction Certificate.
- 3.40. Prior to the issue of a Construction Certificate, a dilapidation survey must be undertaken by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 for the adjoining property at 78-80 Brancourt Avenue, Bankstown and is to detail the physical condition of all structures (including driveways, retaining walls, and other outdoor structures such as carports, pergolas, awnings, 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 strata owner prior to the issue of a Construction Certificate.

4. Conditions to be Satisfied Before Construction.

- 4.1. 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.
- 4.2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 4.3. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —
- a. In the case of work for which a principal contractor is required to be appointed—
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act,
 - b. In the case of work to be done by an owner-builder—
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- 4.4. 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.

- 4.5. 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).
- 4.6. 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.
- 4.7. 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.
- 4.8. 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.

- 4.9. 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.

- 4.10. 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.

- 4.11. 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.
- 4.12. The demolition of all structures on the property must be undertaken in accordance with all the following:
- a. Written notice must be issued to adjoining residents a minimum of seven (7) days prior to the commencement of demolition advising of the commencement date,
 - b. Written notice must be issued to Council for inspection a minimum of (7) days prior to the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
 - c. Inspections being undertaken by Council including:
 - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and prior to demolition work commencing, and
 - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
 - d. Payment of an inspection fee at Council’s current rate must be paid prior to inspection. Council requires 48 hours’ notice to carry out an inspection,
 - e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
 - f. All demolition work must be carried out in accordance with Australian Standard 2601-2001 – The Demolition of Structures,
 - g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
 - h. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
 - i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,

- j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
- k. Adhere to the requirements stipulated in the approved Waste Management Plan, and
- l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

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

5. Conditions to be Satisfied During Construction.

- 5.1. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the applicant and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 5.2. 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.
- 5.3. 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.
- 5.4. Requirements of the approved WMP shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works. When implementing the WMP the developer is to ensure:
 - a. The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the Protection of Environment Operations Act 1997;
 - b. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*;
 - c. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW;

- d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it;
 - e. Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste;
 - f. All materials and resources that are to be stored on site during construction works are contained on the site, The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses; and
 - g. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.
- 5.5. Building work must be carried out in accordance with the requirements of the BCA.
- 5.6. 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.

- 5.7. The following street tree shall be retained and protected from removal and damage prior to and for the duration of the development:

Tree Species	Location
2 x Callistemon viminalis (Weeping Bottlebrush)	Nature strip forward of the property line of no.76 & 76A Brancourt Avenue

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

- a. 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.
 - b. 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;
 - c. No vehicular access, excavations for construction or installation of services shall be carried out within the fenced off Tree Protection Zone.
 - d. All utility services, pipes, stormwater lines and pits shall be located outside the fenced off Tree Protection Zone.
 - e. Building materials, chemical storage, site sheds, wash out areas, waste material and similar shall not be located within the fenced off Tree Protection Zone.
 - f. Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.
 - g. The comments noted on Page no. 7, Section no. 5.0, "Conclusion & Recommendations" of the Arboricultural Impact Assessment shall be adhered to during construction works.
- 5.8. 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.
- 5.9. 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.
- 5.10. 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.

- 5.11. 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.
- 5.12. 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.
- 5.13. 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.
- 5.14. 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.
- 5.15. No permanent or temporary anchors are to be installed on adjoining properties without the approval of the adjoining landowners.
- 5.16. If any neighbouring properties or roadway are to be utilised for support, the legal rights of any adjoining properties must be respected including for temporary supports. In this regard the written permission of the affected property owner must be obtained and a copy of the owner's consent for temporary rock anchors or other material in adjacent lands must be lodged to Canterbury Bankstown Council prior to the issue of a Construction Certificate.

Temporary rock anchors are rock anchors that will be de-stressed and removed during construction. All other rock anchors are permanent rock anchors for the purposes of this Consent.

Council will not permit permanent rock anchors in adjacent private lands unless they are specifically permitted in a Development Consent.

Where temporary anchors are proposed to be used, an Application must be made to Canterbury Bankstown Council for approval under Section 138 of the *Roads Act 1993*, via a Road Works Permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve.
 - b. All existing services must be shown on a plan and included on cross sectional details where appropriate.
 - c. Demonstrate how the temporary anchors will be removed and replaced by full support from structures within the subject site by completion of the works.
 - d. The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
- 5.17. 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.

- 5.18. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 5.19. 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.

- 5.20. 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. A copy of the waste removal agreement and receipts shall be made available to Council on request.
- 5.21. 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.
- 5.22. 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.

6. Conditions to be Satisfied Before 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. Consolidation of the existing allotments must be registered by NSW Land Registry Services prior to the issue of any occupation certificate.
- 6.4. Landscaping is to be installed in accordance with the approved landscape plan(s). All works and methods nominated and materials specified on the approved landscape plan(s) are to be completed prior to the issue of an Occupation Certificate.

- 6.5. Seventeen (17) off-street car spaces being provided in accordance with the submitted plans. This shall comprise:

- Seventeen (17) residential spaces

Two (2) of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 6.6. Seven (7) off-street motorbike spaces being provided in accordance with the submitted plans.

- 6.7. Resident and visitor bicycle parking spaces are to be provided on the ground floor in accordance with the submitted plans.

- 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. 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.

Lighting of communal areas must be designed to promote a high level of safety and security at night and during periods of low light.

- 6.11. Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282: Control of the Obtrusive Effects of Outdoor Lighting to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.

- 6.12. The building must be readily identified from the street with the allocated house numbers. An official "house numbering" letter is issued to the person having benefit of this Determination Notice indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.

- 6.13. 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.
- 6.14. Prior to the issue of any Occupation Certificate, under the Boarding Houses Act 2012, Boarding House proprietors are required to register their boarding house with NSW Fair Trading. Failure to do so is an offence and action may be taken.
- 6.15. Prior to commencement of the boarding house use, a notification letter shall be forwarded to Council, the Police and all adjoining and adjacent neighbours with the Operator providing contact details for the registering of complaints/incidents. Evidence of this letter being forwarded as required in this condition shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate and commencement of the use.
- 6.16. Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrances and exits. All CCTV cameras shall have the capacity to store footage for a minimum of twenty-one days.
- 6.17. Prior to the issue of an occupation certificate, a pre-occupation premises inspection report is to be undertaken by Council's Environmental Health Officer.
- 6.18. Prior to the issue of any occupation certificate, a Business Registration Form must be completed and submitted to Council. This form is available online at www.cbcity.nsw.gov.au. In the instance details on the original registration form change, Council is to be notified of the change within seven (7) days of the change occurring.
- 6.19. 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.
- 6.20. 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 portion of the 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; and
- 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.

- 6.21. 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.

- 6.22. Before to the issue of an occupation certificate, certifier to inspect and confirmation that the open breezeways (communal hallways) have not been enclosed by walls, windows or the like, further than is shown on stamped plans. All communal hallways are to remain open-air for the lifetime of the development unless separate consent for their enclosure is obtained from Council.

7. Conditions of Use.

- 7.1. The Plan of Management, which addresses the ongoing management and operational aspects of the boarding house is to be implemented throughout the ongoing use of the development.
- 7.2. The Plan of Management shall be displayed in prominent locations within the premises and a copy of the Plan shall be provided to all residents of the boarding house. The Operator shall be responsible for ensuring that the terms of the Plan are always adhered to.
- 7.3. The boarding house must be registered with NSW Fair Trading within 28 days, where a proprietor takes over an existing, or begins operating a new boarding house.
- 7.4. Council will carry out initial inspection within the first twelve (12) months and on-going inspections in accordance with the Boarding Houses Act 2012, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.

- 7.5. 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 must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request.
- 7.6. The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
- 7.7. 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.
- 7.8. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 7.9. 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.
- 7.10. 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.
- 7.11. 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.
- 7.12. The use of the outdoor communal areas is to be restricted to between 7.00am and 8.00pm daily. This restriction is to be signposted within the outdoor communal area.
- 7.13. The hours of use of the internal communal areas is to be restricted to between 7:00 am and 10:00 pm, daily. This restriction is to be signposted within the indoor communal area.
- 7.14. No more than 63 persons shall reside on site at any one period of time.
- 7.15. All vehicles associated with the development shall enter and exit the site in a forward direction.

- 7.16. 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.
- 7.17. The Operator is to monitor the number and nature of complaints/incidents, shall formally register all incidents/complaints received and shall detail the action taken to rectify the problems that have arisen. This information shall be collated into an Incidents/Complaints Register. This Register must be produced upon demand by Council or NSW Police. The Register must contain a direction that all complaints/incidents of a criminal nature are to be reported to the Police immediately.
- 7.18. The boarding house is required to be registered on a register administered by NSW Fair Trading within 28 days, where an operator/proprietor takes over an existing, or begins operating a new, registrable boarding house. Council will carry out initial inspection (within the first twelve months) in accordance with the Boarding Houses Act 2012 and ongoing annual inspections, subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.
- 7.19. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
- 7.20. Appropriate furniture and fittings must be provided and maintained in good repair.
- 7.21. All lodgers shall enter into a residential tenancy agreement before occupation of any room in the development.
- 7.22. All boarders/lodgers shall be required to reside on the premises for a minimum period of three (3) months in accordance with the definition of a Boarding House.
- 7.23. Signage is to clearly visible at the front of the Boarding House that includes a contact number for the registering of all complaints.
- 7.24. The Operator of the building must ensure that the communal and public spaces of the building including pavements and gutters as well as the grounds are to be kept clean and free of litter at all times.

- 7.25. Speakers must not be installed, and music must not be played in any of the outdoor areas associated with the premises, including the open communal area. Speakers located within the premises must not be placed to direct the playing of music towards the outdoor areas associated with the premise.
- 7.26. All storage areas are to be clearly identifiable and secured. Any storage areas in alcoves need to be well lit and mirrors to be erected to assist with unclear sightlines.
- 7.27. Access control for the basement must include the provision of a roller door (or similar) installed a suitable electronic security access.
- 7.28. Access into the residential lobby shall be via key/swipe card and/or intercom for visitors.
- 7.29. CCTV is to be installed to the basement levels and to the entries in proximity to the letter boxes for the development.
- 7.30. All letter boxes are to have non-master key locks, to prevent mail theft and fraud.

-END-

Canterbury Bankstown Local Planning Panel - 15 December 2021

ITEM 3	DA-509/2021 – 2A Johnston Road, Bass Hill Erection and use of temporary structures for the purposes of a circus (showtimes from 18 February to 7 March 2022), temporary employee accommodation and associated commercial purposes
FILE	DA-509/2021 – Bura / Bass Hill
ZONING	RE1 Public Recreation
DATE OF LODGEMENT	23 June 2021
APPLICANT	Janlin Circus Trading as Stardust Circus
OWNERS	Canterbury-Bankstown Council
ESTIMATED VALUE	Nil
AUTHOR	Planning

SUMMARY REPORT

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

DA-509/2021 proposes the erection and use of temporary structures for the purposes of a circus (show times from 18 February to 7 March 2022), temporary employee accommodation and associated commercial purposes.

DA-509/2021 has been assessed against, amongst other things, the Canterbury Bankstown Draft Local Environmental Plan 2020, the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015. The application complies, with the exception of a minor variation with the requirement for a parking study to be prepared and submitted for Council's consideration.

The application was advertised for 21 days ending on 4 August 2021 and notified for a further 14 days in accordance with the Canterbury Bankstown Community Participation Plan 2019 ending on 4 November 2021. No submissions were received by Council with regard to this application.

POLICY IMPACT

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

FINANCIAL IMPACT

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

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

ATTACHMENT A: SECTION 4.15 ASSESSMENT REPORT**SITE LOCALITY AND DESCRIPTION****Site History**

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

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



Figure 1: Car Parking Area, Source: Site Inspection

The property as a whole is shown below, highlighted in blue. The development is proposed within the portion of the site specifically highlighted in pink, with Council's carpark to be utilised by the circus in green below:



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

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

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

Surrounding Development.

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

PROPOSED DEVELOPMENT

The Development Application proposes the erection and use of temporary structures in association with 21 circus performances. Specifically, consent is sought for the erection of a tent for circus performances, as well as the temporary sitting of mobile dwellings for staff and temporary structures for ancillary commercial purposes including the sale of food and goods. All structures and activities are to be on site for the period of 14 February 2022 to 9 March 2022, which allows for 'bump-in' and 'bump-out' periods surrounding the proposed performance dates.

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



Figure 4: Aerial of subject site in red. Source: NearMap taken January 22, 2020

Timeframes.

The application proposes the following performance show dates and times:

Date	Time
18 February	7pm
19 February	2pm and 6pm
20 February	2pm and 5pm
22 February	7pm
23 February	7pm
24 February	7pm
25 February	7pm
26 February	2pm and 6pm

27 February	2pm and 5pm
1 March	7pm
2 March	7pm
3 March	7pm
4 March	7pm
6 March	2pm and 6pm
7 March	2pm and 5pm

Permissibility.

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

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

Additionally, it is noted that Council supports circus type entertainment at appropriate locations and has determined two locations for circuses and carnivals, namely, Carysfield Reserve, Bass Hill, and Gough Whitlam Park, Earlwood (Council Resolution: USE OF EXOTIC ANIMALS IN CIRCUSES POLICY Document ID: PLAN-17-1941 – endorsed on 26 June 2018)

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:

- Biodiversity Conservation Act 2016
- State Environmental Planning Policy No 55 – Remediation Land (SEPP 55)
- State Environmental Planning Policy No 19—Bushland in Urban Areas
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Bankstown Local Environmental Plan 2015 (BLEP2015)
- Bankstown Development Control Plan 2015 (BDGP 2015)

BIODIVERSITY CONSERVATION ACT 2016

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

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

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

SECTION 4.15 ASSESSMENT

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

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

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

Clause 7 of SEPP No 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, we 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, we must be satisfied that the land will be remediated before the land is used for that purpose.

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

The subject site has long been used for a variety of recreational purposes and this will not change as part of the development application. There is no evidence to suggest that the site is contaminated, nor is it considered necessary for any further investigation to be undertaken with regard to potential site contamination. The subject site is considered suitable for the development application and therefore satisfies the provisions of SEPP No. 55.

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

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

State Environmental Planning Policy No 19—Bushland in Urban Areas

The proposal has been assessed against the relevant aims and objectives of State Environmental Planning Policy No 19—Bushland in Urban Areas which seeks to protect remaining native vegetation within urban areas. While the site contains native vegetation, the proposal does not seek to prune or remove any vegetation and is considered consistent with the aims of the instrument.

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

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

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

Bankstown Local Environmental Plan 2015

The proposal has been assessed as consistent with the aims of BLEP 2015 with specific regard to the protection and promotion of land for use for arts and cultural activities, as well as for the protection of vegetation. Additionally, the proposal is considered to be consistent with the objectives of the RE1 Public Recreation zone, in that the temporary development will provide use of the open space for recreational activities.

The proposal complies with all relevant clauses of BLEP 2015, including Clause 2.8 Temporary use of land, as demonstrated through the provided showtimes being limited to under 52 days within a 12-month period. The consent authority can be satisfied that the temporary use will not prevent future uses of the site in accordance with BLEP 2015 and that impacts on surrounding lands and residential amenity will be adverse or detrimental.

No vegetation is proposed for removal through this application, which is considered to demonstrate compliance with BLEP 2015 Clause 6.4 Biodiversity, which seeks to protect native flora and fauna.

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

Draft Canterbury Bankstown Local Environmental Plan 2020

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 reviewed by the Department of Planning. While the draft instrument proposes the introduction of some additional provisions, in the most part, 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 respect to the proposed development the proposal is considered to be consistent with the aims of the draft instrument (being identical to the provisions contained in the current applicable local environmental plan).

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

Bankstown Development Control Plan 2015

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

Bankstown Development Control Plan 2015			
Clause	Requirement	Comment	Complies (Y/N)
BDCP 2015 Part A2 Corridors			
Section 1- Introduction	a) To have development that is compatible with the desired character and role of the Hume Highway Corridor	Subject site is in Precinct 2 (Bass Hill Small Village Centre) of the Hume Highway Corridor. The proposed development is not inconsistent with this clause.	Y
Section 2 – Hume Highway Corridor	1.0 Desired Character (ii) Bass Hill Small Village Centre	The proposed development is not inconsistent with this clause.	Y
BDCP 2015 – Part B5 - Parking			
Objectives	The objectives of Part B5 of this DCP are: (a) To have car parking meet the demands of new development. (b) To have the layout and design of car parks function efficiently and safely. (c) To have development achieve the parking requirements. (d) To have the design of open-air car parks incorporate landscaping areas to minimise the visual impact.	The proposed development anticipates a maximum of 600 patrons at any one time. Access to the site is provided through a combination of bus routes along Hume Highway and through Council's existing car park accessed off Johnston Road. It is considered that the proposal is consistent with the objectives of this Part of the BDCP 2015	Y

Bankstown Development Control Plan 2015			
Clause	Requirement	Comment	Complies (Y/N)
	(e) To have a balance between parking requirements, visual aesthetics and pedestrian safety, which includes access for people with disabilities and convenience for drivers		
Section 2.2 – Off-street parking spaces	Development not included in the schedule of car parking standards must submit a parking study for Council's consideration. A qualified traffic consultant must prepare the parking study.	No study was submitted with the application. See discussion below.	N
BDCP 2015 – Part B11 - Tree Management Order			
Section 2.3 – Prescribed trees	All trees over 5.0 metres in height	No tree removal or pruning works are proposed	Y
BDCP 2015 - Part B12 – Flood Risk Management			
Section 3.2.1 – Performance Criteria	Not result in increased risk to human life or economic / social loss	The proposal is not considered to increase the risk to life or property as a result of the temporary development on the site A condition of consent has been imposed on the determination notice regarding the evacuation procedures.	Y
BDCP 2015 Part B13 – Waste Management and Minimisation			
Section 1.1 – Waste Management	Development must be accompanied by a Waste Management Plan	The application has been referred to Council's Waste Team for comment, with associated conditions of consent. The proposed temporary use of the land is not considered to be inconsistent with the objectives of BDCP 2015 – Part 13	Y

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

Off-street parking spaces:

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

Comment: In this instance, a parking study is not considered to be necessary for two reasons. Firstly, the site benefits from an existing Council owned car parking facility with a capacity of 170 vehicles. Council has consented to numerous temporary circus uses at this site since 1998 with the most recent applications being DA-276/2018, DA-1050/2017 and DA-68/2017. Council has not recorded any complaints or infractions related to parking as a result of the temporary uses of the site for circuses. Further, the site is one of two sites within the local government area that Council has nominated as a suitable site for a circus use (Council Resolution: USE OF EXOTIC ANIMALS IN CIRCUSES POLICY Document ID: PLAN-17-1941 – endorsed on 26 June 2018) and is therefore considered specifically capable for the proposed temporary use of the site.

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

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

No planning agreement has been entered into.

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

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

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

The development is not considered to provide for undue impacts on the natural and built environments with no recognisable social or economic impacts on the locality.

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

The site is considered suitable for the development.

Submissions [section 4.15(1)(d)]

The application was advertised for 21 days ending on 4 August 2021 and notified for a further 14 days in accordance with the Canterbury Bankstown Community Participation Plan 2019 ending on 4 November 2021. No submissions were received by Council with regard to this application.

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

Approval of the development would be consistent with the wider public interest.

CONCLUSION

The Development Application has been assessed in accordance with the matters for consideration contained within Section 4.15 of the *Environmental Planning and Assessment Act 1979* which require, amongst other things, an assessment against the provisions contained within State Environmental Planning Policy 55 – Remediation of Land (SEPP 55), State Environmental Planning Policy No 19—Bushland in Urban Areas, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2, Georges River Catchment, Draft Canterbury Bankstown Local Environmental Plan 2020, Bankstown Local Environmental Plan 2015 (BLEP2015) and Bankstown Development Control Plan 2015 (BDCP 2015).

In this regard the proposal was found to appropriately respond to the standards and controls applicable to the site and the development, despite the minor non-compliance proposed to BDCP 2015 with regard to the provision of a parking and traffic survey.

Notwithstanding the non-compliance proposed with the application, it is considered that the development application is an appropriate outcome in the context of the surrounding locality and has been recommended for approval, subject to the draft conditions attached to this report.

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

- 1.1 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 Name	Date	Prepared By
Site Plan	15 November 2021	Janlin Pty Ltd.

Document Name	Date	Prepared By
Risk Management for Janlin Circuses P/L	2021	Janlin Circuses Pty Ltd
Waste Management Plan	2021	Janlin Circuses P/L

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

- 1.2 A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 1.3 Approval for temporary use of the site (Carysfield Reserve) is dependent upon the procurement of a Special Events Park Permit from Canterbury Bankstown City Council and strict compliance with Councils policy titled *USE OF EXOTIC ANIMALS IN CIRCUSES POLICY dated 16 October 2018*. Permission to operate the circus with animals will only be granted if all required approvals have been given by the NSW Department of Primary Industries (DPI) under all relevant legislation including the Exhibited Animals Protection Act 1986 and the Exhibited Animals Protection Regulation 2010. Copies of all DPI Approvals must be attached to Council's Special Events Application Form. The conditions of the Special Events Park Permit are to form part of this Determination Notice
- 1.4 Approval for temporary use site is only permitted upon notification to the RMS Traffic Management Centre of the approved Temporary Development on (02) 8396 1513.
- 1.5 Once a permit is secured from Council for use of the site, and prior to bump-in, current photos depicting the condition of the site are to be supplied to Council (Council@CBCity.NSW.gov.au), with attention to: Community Events and Referencing this Determination Notice. These photos will serve as a condition report for the site.

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

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

1.6 The Waste Management Plan (WMP) is to be implemented throughout the use of the site for the purposes of the circus (showtimes from 14 February 2022 to 7 March 2022), temporary employee accommodation and associated commercial purposes.

2. CONDITIONS TO BE SATISFIED DURING SETUP

- 2.1. Works to site for the purpose of setting up facilities may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no work is to be carried out at any time on a Sunday or a public holiday.
- 2.2. There is to be no parking or storing of trucks or vehicles on the grassy areas of the reserve at any time during bump-in or occupation.
- 2.3. All trees on site are protected from removal and damage for the duration of the development. Tents, structures and building materials, chemical storage, wash out areas and similar shall not be located within the drip line of trees. Trees shall not be damaged or used to display signage, or as fence or cable supports for any reason.
- 2.4. A certificate from a professional engineer certifying the structural capacity of the erection of the temporary structures is appropriate for their proposed use must be provided to Council prior to the commencement of the circus.

3. Conditions to be Satisfied Prior To Use of The Site

- 3.1. All temporary food handling businesses in NSW are required to notify their local council and provide business and food activity details prior to the event. Business Registration Form must be completed and submitted to Council. This form is available online at www.cbccity.nsw.gov.au.
- 3.2. All mobile food vehicles shall be registered with Canterbury Bankstown Council prior to the event by contacting Council's Environmental Health Unit to organise an inspection of the stalls to ensure they comply with relevant standards.
- 3.3. A pre-occupation food premises inspection report is to be undertaken by Council's Environmental Health Officer prior to the event performances to ensure they comply with relevant standards.

- 3.4. Temporary toilet/sanitary facilities are to be provided for on site at the expense of the person with the benefit of Council's permit.
- 3.5. Prior to the first performance, adequate flood warning is to be provided on site to allow safe and orderly evacuation without undue reliance on the SES or other authorised emergency personnel. The applicant is to have a flood evacuation plan that comprises of the below requirements;
- i. Flood management plan designed by practicing and qualified hydraulic engineer
 - ii. Visual and audible warning systems
 - iii. Signage
 - iv. Evacuation drills for staff
- 3.6. The applicant must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection and disposal. You must be able to show your waste collection contract if it is requested by a Council Enforcement Officer.

4. During Use of The Site

- 4.1. Use of the site must not commence before 14 February 2022.
- 4.2. Public performances are limited to the following dates and times:

Date	Time
18 February	7pm
19 February	2pm and 6pm
20 February	2pm and 5pm
22 February	7pm
23 February	7pm
24 February	7pm
25 February	7pm
26 February	2pm and 6pm
27 February	2pm and 5pm
1 March	7pm
2 March	7pm
3 March	7pm
4 March	7pm
6 March	2pm and 6pm
7 March	2pm and 5pm

- 4.3. The number of people who are in the main tent structure at any one-time during circus performances must not exceed 680 people. A person must be appointed to ensure the maximum number of people is not exceeded.
- 4.4. A minimum of six exits must be provided for the main tent structure.

- 4.5. Exit signs, emergency lighting and portable fire extinguishers must be installed in the main tent structure.
- 4.6. In the case of the erection of a stage or platform, a notice indicating the actual distributed and concentrated load for which the stage or platform has been designed must be conspicuously displayed on the stage or platform.
- 4.7. Suitable sanitary accommodation must be provided at a location convenient to the main tent structure.
- 4.8. Arrangements must be in place for the collection of any waste or recyclable material likely to be generated as a result of the use of the temporary structures.
- 4.9. Off-street car parking spaces shall be provided/maintained for the use of visitor and employees to the premises in accordance with the submitted plans within the Carysfield Reserve carpark.
- 4.10. Any food stalls shall be installed and operated in compliance with the following:
 - i. The *NSW Food Act 2003* and *Food Regulation 2015*;
 - ii. Australia New Zealand Food Standards Code; &
 - iii. NSW Food Authority “Guidelines for Food Business at Temporary Events”.
- 4.11. The installation of barbecue or charcoal cooking appliances or the cooking of food at the premises by barbecue or charcoal methods is not permitted.
- 4.12. All food shall be prepared and cooked on site at the event. The preparation and cooking of food from external sites are strictly prohibited.
- 4.13. A fire extinguisher and fire blanket should be supplied in any vehicle or stall where cooking or heating processes are undertaken.
- 4.14. A designated person shall be responsible for the monitoring and emptying of any clean up waste containers and toilet facilities for the duration of each event listed on the event schedule.
- 4.15. 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.
- 4.16. To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act 1997.

- 4.17. Speakers must not be installed, and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed to direct the playing of music towards the outdoor areas associated with the premises.
- 4.18. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
- 4.19. Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 4.20. 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.
- 4.21. No waste storage containers are to be located or placed on the outside the waste storage area at any time except for collection purposes.
- 4.22. 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.
- 4.23. In accordance with the flood management plan required under this Determination Notice, in the event of a significant weather event where floodwaters rise above average levels, warning from SES and/or Bureau of Meteorology, or an indication from Council that the reserve is to be closed for a weather event, use of the site is to cease with all persons being evacuated to a safe environment.
- Motor vehicles are to be relocated, to an area with substantially less risk from flooding.
- 4.24 No fireworks are permitted to be used at any time during the approved temporary development.

5. Conditions to Be Satisfied After Operation

- 5.1. The temporary structures must be dismantled and removed from the land within two (2) days after conclusion of the circus performances.
- 5.2. The site is to be vacated in the state in which it was occupied. Should Council determine that the site has been permanently or significantly damaged as a result of the authorised use, Council may seek to remedy such damages at the cost of the individual with the benefit of this Determination Notice / operator.

-END-

Canterbury Bankstown Local Planning Panel - 15 December 2021

ITEM 4	Planning Proposal for 445-459 Canterbury Road, Campsie (RZ-4/2020)
APPLICANT	Mecone
OWNERS	Hailiang Property Group Australia Pty Ltd
AUTHOR	Planning

PURPOSE AND BACKGROUND

The purpose of this report is to seek the Local Planning Panel's advice on proposed changes to the Canterbury Bankstown LEP.

Council is in receipt of an application to prepare a Planning Proposal for the site at 445-459 Canterbury Road, Campsie. The site currently comprises low scale commercial premises including retail shops and a motor vehicle repair business. The application seeks to increase the maximum height of building control from 12m to 45.5m to facilitate the redevelopment of the site for the purposes of a part 10 and 11 storey private hospital with 218 beds, eight operating theatres, and five levels of basement car parking.

The application will facilitate the redevelopment of the site for a new private hospital that will have significant positive social, economic and health related benefits. The development has a total Capital Investment Value of \$125 million. Approximately 453 Full Time Equivalent staff will be employed once operational and the private hospital will provide health services to support the nearby Canterbury Public Hospital including provision of health services not offered at the existing public hospital. At present there are no private hospitals in the Canterbury Bankstown LGA and there is strong demand for such health facilities to operate within the LGA. Currently, residents must travel outside of the LGA to access health services offered by private hospitals.

The application is supported by a Letter of Offer which outlines the proponent's in-principle commitment to dedicate part of the site as a through site link to facilitate the delivery of a new rear lane, new pocket park, public art, contribution towards the design and construction of a new cycleway in Campsie and pedestrian and public domain improvements in the vicinity of the site to improve access for users of the site in the future. The application includes provision of a nine metre wide laneway along the rear of the site to provide vehicle access to the future private hospital on the site and would remove vehicle access to the site from Canterbury Road.

A detailed assessment of the application indicates that there is strategic and site specific merit to proceed to the next step in the plan making process and seek Gateway approval from the Department of Planning, Industry and Environment (the Department) subject to undertaking further analysis with regard to traffic, stormwater and flooding management and site

contamination. Council will prepare a site specific Development Control Plan (DCP) that will set out the detailed planning and development controls for the site and would be exhibited concurrently with the Planning Proposal.

The application is consistent with the Council's Local Strategic Planning Statement: Connective City 2036 and Draft Campsie Town Centre Master Plan which both seek to establish an Eastern Lifestyle and Medical Precinct along Canterbury Road. The application is also consistent with the draft Master Plan which acknowledged that the application for the site can proceed separately from the draft Master Plan given the importance of the proposal being a hospital to anchor the health precinct and to help catalyse other health related development within the precinct.

Council and Transport for NSW have reviewed the traffic implications of the proposal and proposed traffic management measures put forward by the applicant to help minimise traffic congestion along Canterbury Road and surrounding streets. Some additional information and further consultation with TfNSW is required and can be carried out during the ordinary exhibition period of the application subject to the Department issuing a Gateway Determination.

ISSUE

In accordance with the Local Planning Panels Direction, issued by the Minister for Planning and Public Spaces in 2018, the Canterbury Bankstown Local Planning Panel is requested to provide advice for Council's consideration on whether a Planning Proposal for the site at 445-459 Canterbury Road, Campsie should proceed to Gateway.

RECOMMENDATION That -

1. The application to amend the draft Canterbury Bankstown Local Environmental Plan 2021 proceed to Gateway subject to:
 - (a) Inclusion of a site-specific LEP clause in Part 6 'Additional Local Provisions' that permits the following:
 - a. A maximum building height of 44.1m to Canterbury Road only where the use of the land is a hospital use. The clause will include minimum setbacks for rooftop mechanical plant to maintain solar access to surrounding properties. Due to the site's topography, the clause will also stipulate a maximum building height of 45.5m when measured from the northern side of the site from the future rear lane, inclusive rooftop mechanical plant
 - b. A maximum Floor Space Ratio (FSR) of 5.1:1 to apply for hospital uses only.
 - c. Stipulate minimum setbacks for the building as measured from the Canterbury Road boundary and other site boundaries to maintain solar access to the surrounding properties.
 - d. Include objectives in the proposed Local Provision clause as follows:
 - To encourage the development of a hospital to enhance the delivery of health services to the local community.
 - To ensure that the development is compatible with surrounding land uses and site constraints and maintains acceptable solar access to future residential development along Canterbury Road.

- (b) Prior to public exhibition occurring the following additional information is submitted by the applicant:
- i. Draft site specific DCP controls that are supported by modelling to protect solar access to residential apartments on the southern side of Canterbury Road. This is to include controls for minimum building setback and maximum mechanical plant height.
 - ii. A NSW Environment Protection Authority accredited Site Auditor to verify the methodology and conclusions of the draft RAP.
 - iii. Additional traffic modelling and other supporting information to address issues raised by Transport for NSW and Council in relation to the Planning Proposal.
2. Council prepare a site specific DCP Amendment as outlined in Section 4 of this report and exhibit the DCP Amendment concurrently with the Planning Proposal.
 3. A draft Planning Agreement be prepared and exhibited alongside the Planning Proposal, subject to the following:
 - i. Agreement being reached by the applicant and Council on an active transport/cycleway contribution, open space contribution, and accurate costing for pedestrian and traffic management measures prior to the matter being considered by Council.
 - ii. Development contributions under s7.11 and s7.12 being payable in full in addition to any public benefit offer, consistent with Council's Planning Agreement Policy.
 4. The applicant updating the supporting studies prior to exhibition to reflect the amendments to the Planning Proposal since lodgement (incl. reduced building height from 56m to 44.1m and 45.5m, maximum Floor Space Ratio of 5.1:1).
 5. Subject to the issue of a Gateway Determination, Council exhibit the Planning Proposal, draft site specific DCP and draft Planning Agreement and the matter be reported to Council following the exhibition.
 6. Council seek authority from the Department of Planning, Infrastructure 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.

ATTACHMENTS

[Click here for Attachment A-F](#) [Click here for Attachment G-O](#)
[Click here for Attachment P-W](#)

-
- A. Draft Planning Proposal
 - B. Applicant's Letter of Offer
 - C. Not Applicable
 - D. Applicant's Acoustic Report
 - E. Applicant's Clinical Review Report Campsie
 - F. Applicant's Detailed Site Investigation and Data Gap Investigation
 - G. Applicant's Draft Remediation Action Plan March 2021
 - H. Applicant's Development Floor-Floor Requirements and Engineering Statement
 - I. Applicant's Stormwater Advice

- J. Applicant's Original Urban Design Report GMU
- K. Applicant's Revised Urban Design Response DR
- L. Applicant's Shadow Impact Analysis
- M. Applicant's Social and Economic Study and Impact Assessment
- N. Letter from Sydney Local Health District to Applicant
- O. Applicant's Traffic Peer Review Response
- P. Applicant's Traffic Modelling Summary
- Q. Applicant's Concept Public Art Strategy
- R. Applicant's Revised Landscape Strategy Aug 2021
- S. Applicant's Flooding Impact Statement and SSR
- T. Peer Review Report - Social and Economic impacts
- U. Peer Review Report - Traffic Peer review
- V. TfNSW Comments
- W. Applicant's Planning Proposal

POLICY IMPACT

Council's adopted Local Strategic Planning Statement (LSPS) – 'Connective City 2036' guides the future growth and development of the City of Canterbury Bankstown to 2036. The proposal responds to the key directions by reinforcing the role of Campsie as a Strategic Centre and supporting the development of the Eastern Lifestyle and Medical Precinct through social infrastructure capital investment estimated at \$125 million in close proximity to Campsie. The proposal will also facilitate achievement of Evolution Three – Places for Commerce and Jobs by promoting employment growth within the Campsie Masterplan area and providing health services to support the growing population envisaged in Evolution 6 – Urban and Suburban Places, Housing a City from the LSPS. The proposal, if developed, is anticipated to contribute 453 jobs to the 2,700 target established in the Campsie Masterplan.

The proposal also aligns with the following planning priorities within the South District Plan which identifies that Canterbury Bankstown LGA will accommodate 70% of population growth in the South District and that planning must provide services and social infrastructure to meet this growth and changing needs. The proposal which comprises a \$125 million Capital Investment Value health facility will also facilitate employment growth in Campsie which is identified in the District Plan as is the principal underlying economic goal for metropolitan and strategic centres.

- Planning Priority S3 – Providing services and social infrastructure to meet people's changing needs.
- Planning Priority S4 – Fostering healthy, creative, culturally rich and socially connected communities.
- Planning Priority S9 – Growing investment, business opportunities and jobs in strategic centres.

FINANCIAL IMPACT

There is no financial impact to Council arising from this proposal.

The proposal is supported by a Letter of Offer that identifies infrastructure upgrades in the public interest that will be delivered along-side the proposal. These infrastructure upgrades will be delivered through the planning agreement as outlined in this report in addition to ordinary conditions of any development approval. The Letter of Offer also identifies additional items where the proponent will contribute toward broader public benefits for the Campsie town centre.

COMMUNITY IMPACT

- This application will enable the delivery of a new private hospital on the site that aligns with the strategic vision set out in Council's LSPS and Draft Campsie Town Centre Master Plan. The proposal will deliver a number of positive social, economic and health related benefits to the surrounding community and broader city.
- There are currently no private hospitals within Canterbury Bankstown Local Government Area (LGA). The proposal will generate around 453 direct FTE jobs once operational and act as a catalyst for future investment in health and allied services in Campsie.

- The building will have a significant change to the existing built form of the current development on the site and will change the character of the surrounding area. The proposed site specific clause will ensure the height is appropriate for the site, is compatible with the Council's strategic vision for this area of Campsie and takes into careful consideration the amenity of surrounding land uses.
- The Planning Proposal includes a Letter of Offer that will include provision of public domain upgrades around the site to improve access for pedestrians including dedication of the site frontage to provide a wider footpath along Canterbury Road, a new pedestrian through site link, delivery of public art and a monetary contribution towards delivery of a future cycleway in Campsie. Other inclusions are the provision of a small pocket park and landscaping in the northern side of the site with an easement to be imposed to allow public access and use in perpetuity (subject to a Planning Agreement).

DETAILED INFORMATION

1. SITE DESCRIPTION

The subject site (site) at 445-459 Canterbury Road, Campsie comprises the following properties as shown in Figure 1.

Table 1: subject site details

Property Address	Property Description	Current Zone	Site Area
445-459 Canterbury Road, Campsie	Lot 3 DP 337683 Lot A DP 355656 Lot B DP 355656 Lot A DP 416123 Lot B DP 416123 Lot 15 DP 3995 Lot A DP 391661 Lot B DP 391661 Lot 13 DP 3995	B6 Enterprise Corridor Zone	4,414m ²

The site has a frontage of 86m to Canterbury Road, a 60m frontage to Stanley Street to the east and slopes down 2.5m from Canterbury Road to the north west of the site. Existing development on the site includes a single storey commercial development with three commercial tenancies fronting Canterbury Road and a vehicle repair station is located on the site's Stanley Street frontage. Each tenancy has associated at-grade car parking.

The site features five vehicle access points in total, with three along the Canterbury Road frontage and two along the Stanley Street frontage.



Figure 1: Site Map



Photo 1: The site frontage to Canterbury Road

2. PROPOSAL

In July 2020, Council received an application to amend the Canterbury Local Environmental Plan 2012. In May 2021, the applicant submitted a revised application in response to Council's preliminary assessment and urban design analysis and the traffic and parking and social and community needs peer reviews commissioned by Council. These peer review documents are available at Attachment A as appendices to the draft Planning Proposal. The additional information submitted by the applicant since lodgement in July 2020 includes:

- Acoustic Report.
- Detailed Site Investigation.
- Data Gap Investigation.
- Draft Remediation Action Plan.
- Floor-Floor Development Requirements and Engineering Statement.
- Concept Stormwater Advice (incl. Water Sensitive Urban Design statement).
- Revised Urban Design Response.
- Revised Social and Economic Study and Impact Assessment.
- Traffic and Transport Peer Review Response.
- Traffic Modelling Summary Peer Review Response.
- Concept Public Art Strategy.
- Revised Landscape Strategy.
- Concept Stormwater and Water Sensitive Urban Design (WSUD) Statement.

The additional information submitted by the applicant addresses most of Council's concerns, however as outlined in this report, additional information is required from the applicant and should be submitted, prior to public exhibition of the Planning Proposal.

The revised application seeks to enable redevelopment of the site to facilitate a private hospital development comprising the following elements:

- Part 10 and 11 storey building envelope providing with a total of 218 beds and eight operating theatres and a total Gross Floor Area of approximately 22,478m² comprising the following elements:
 - 650m² of ancillary retail/café.
 - 1,350m² of allied health, ambulatory care and medical retail.
 - 3,000m² of medical office space.

- Five level basement car park with 382 car parking spaces.
- Servicing area accommodating four loading bays.
- Hospital front and back of house areas.
- Drop-off/pick-up porte cochere off the future rear lane.
- A maximum building height of 44.1m to Canterbury Road. This maximum height includes 4.6m of rooftop mechanical plant. A maximum building height of 45.5m will apply when measured on the northern side from the future rear lane to accommodate the slope of the land.
- Provision of a nine (9) metre wide public lane along the rear of the site which will serve as the only vehicle access point to the future private hospital for staff, patients, emergency and service vehicles. The lane will also be the first segment of a future lane that will run between Stanley Street and Una Street to the east as identified by Council's draft Campsie Master Plan.
- Approximately 382 car parking spaces within five levels of basement car parking.
- Provision of a small pocket park in the north western corner of the site (approx. 205m²).
- Provision of landscaping along the northern, western and southern sides of the site (total 883m² or 20% site area seep soil planting), 15% tree canopy cover (678m²) and approximately 13 street trees to Canterbury Road and Stanley Street.

A site-specific draft Development Control Plan (DCP) has not been submitted by the applicant and it is intended that the draft DCP will be prepared by Council and made available for public comment concurrently with the Planning Proposal.

A description of the objectives and intended outcomes of the application is provided in Table 2. A summary of the current controls and proposed changes to draft CBLEP 2021 is provided in Section 3.

The applicant has submitted a Letter of Offer, at Council's request, that comprises the following items agreed in principle between Hailiang Property Group Australia Pty Ltd and Council:

1. Dedication up to 3.5m of land along the site frontage with Canterbury Road.
2. Dedication of up to 6m of land along the eastern boundary for the purposes of a future pedestrian through site link.
3. Dedication of land to provide a laneway of 9m width from Stanley Street to the eastern site boundary.
4. HPG to ensure provision and maintenance of a small pocket park (minimum 205m²) and landscaping on the north-west side of the private hospital site with an easement to be created to allow public access and use in perpetuity.
5. A proportionate contribution to the provision of a cycleway to the Cooks River, with the final amount to be discussed and agreed with Council. Subject to Council's agreement, the indicative route would be via Stanley Street – Unara Street – Duke Street – Redman Street – Wonga Street – Warrigal Street – Phillips Avenue and onto the path through Tasker Park to the Cooks River cycleway.
6. Works to install a new kerb ramp pair on Stanley Street, crossing Perry Street.
7. Upgrade of pedestrian crossing facilities on Stanley Street and Una Street (Zebra-type crossings) near Canterbury Road.
8. New pedestrian crossing facilities on Unara Street near Beamish Street and on Stanley Street near Unara Street (Zebra-type crossings).

9. Provision of public art on the site, including public art to the new pocket park in the north west corner of the site and in the pedestrian through site link on the eastern side of the site.
10. A monetary contribution made to Council to assist with the acquisition of 80 Duke Street, Campsie (private property) to create a new public park.
11. A monetary contribution capped at \$300,000 to traffic management works as identified in the TTPP Report submitted to Council in August 2021, such as new traffic signals, traffic signage, lighting, traffic median strips, kerbs etc. required along Canterbury Road and adjoining streets in accordance with TfNSW and Council requirements. This contribution can also be used to provide new or upgraded bus stops in close proximity to the new hospital site.

A draft Planning Agreement will be progressed subject to agreement being reached on the above public benefit offer items. It should be noted that Item 11 (above) in the applicant's Letter of Offer refers to road works and traffic management measures which would ordinarily be included as part of the detailed design process of a Development Application and required through conditions of consent and should not be reflected in a Planning Agreement. Refer to Section 4.4 for details of the monetary value of the proposed public benefit offer.

State Significant Development Application

On 13 August 2020, the Department issued the Secretary's Environmental Assessment Requirements (SEARs) for the site to facilitate a State Significant Development Application (SSDA) for the following:

"Demolition of existing structures and construction of a new 11 storey private hospital which will provide essential services including emergency and intensive care."

Any future SSDA for a private hospital will be required to comply with the maximum building height and FSR applicable to the site. Future development at the site will be guided by the site specific DCP to ensure development outcomes sought by Council for the site are delivered and Council will have an opportunity to provide comments on the future SSDA during the formal exhibition period. To ensure solar access is maintained to the surrounding properties as part of the SSDA process, it is proposed to include minimum setbacks for the hospital building to Canterbury Road as part of the site specific LEP clause.

Since lodgement of the application, Council has progressed finalisation of the draft Consolidated Canterbury Bankstown Local Environmental Plan 2021 (CBLEP 2021) which has been publicly exhibited and is with the Department for finalising. Once CBLEP2021 is finalised, this application will be taken to read as an amendment to the new LEP.

Table 2: Description of proposed LEP amendments – proposed provisions and intended outcomes

Proposed LEP Amendment	Explanation of proposed provisions and intended outcomes
New Clause 6.XX in Part 6 - 'Additional Local Provisions' – setting maximum building height for hospital uses	<p>Amend the draft CBLEP 2021 to include a new 'Additional Local Provision' 6.XX 'Hospital development on 445-459 Canterbury Road, Campsie' clause (clause number to be confirmed at time of drafting).</p> <p>The intent of the new 'Additional Local Provisions' clause in Part 6 will be as follows:</p> <ul style="list-style-type: none"> • Development for the purpose of a hospital may have a maximum building height of: <ul style="list-style-type: none"> ○ 44.1m when measured from Canterbury Road frontage. ○ 45.5m when measured from the future rear laneway along the northern side of the site. • A maximum FSR of 5.1:1 will apply for hospital development on the site. • Stipulate minimum setbacks for the building as measured from the Canterbury Road boundary and other site boundaries to maintain solar access to the surrounding properties. • Include objectives in the proposed Local Provision clause as follows: <ul style="list-style-type: none"> ○ To encourage the development of a hospital to enhance the delivery of health services to the local community. ○ To ensure that the development is compatible with surrounding land uses and site constraints and maintains acceptable solar access to future residential development along Canterbury Road.
<p>*Note:</p> <ul style="list-style-type: none"> • The site specific DCP will include controls regarding minimum setbacks for the building and mechanical plant to ensure the future development on the site maintains an acceptable building form to maintain solar access to future residential development on the opposite side of Canterbury Road based on solar access modelling already undertaken for the proposal. • Any proposed development on the site that is other than a hospital would be required to comply with the maximum building height as shown on the height of building map. • Any hospital development on the site is to demonstrate acceptable solar access is provided to future residential development on the opposite side of Canterbury Road, in accordance with the Apartment Design Guide. 	



Figure 2: Applicant's render of the concept development for the site, view looking north east from Canterbury Road

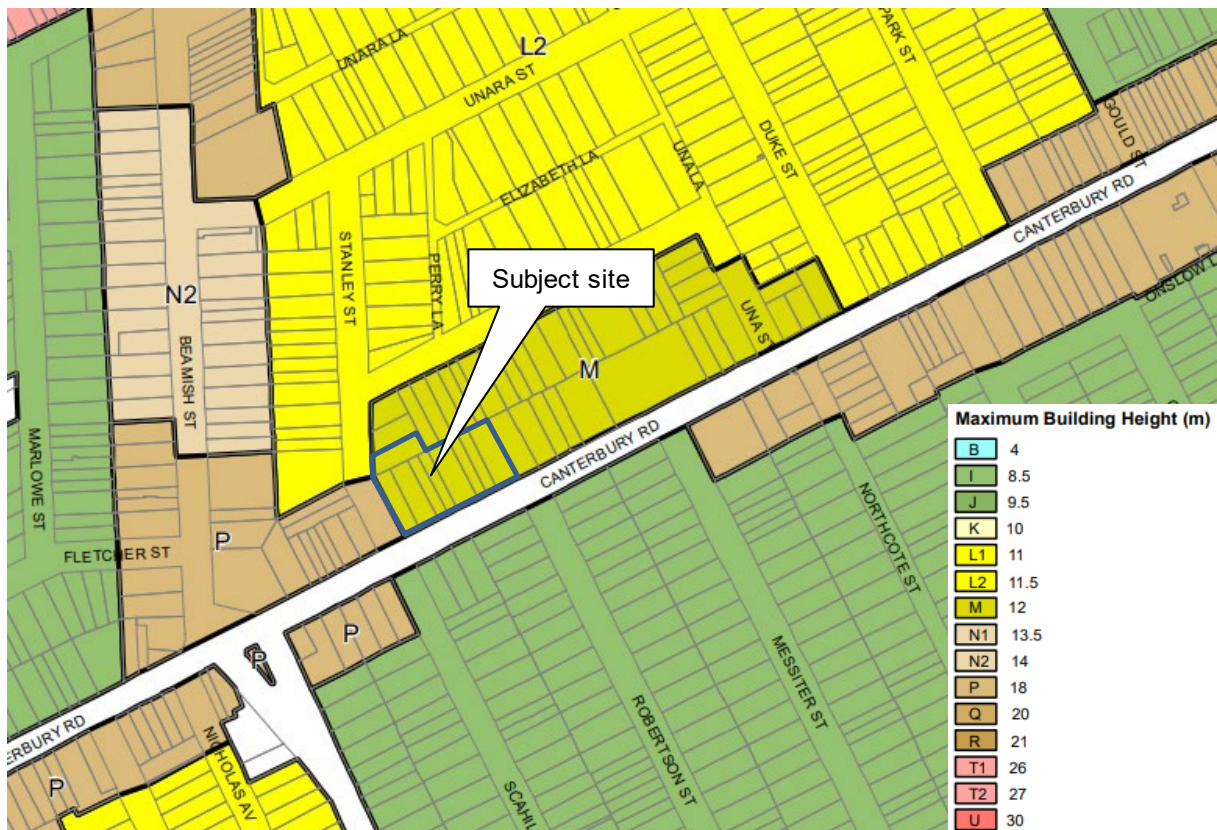


Figure 3: Existing Height of Building Map

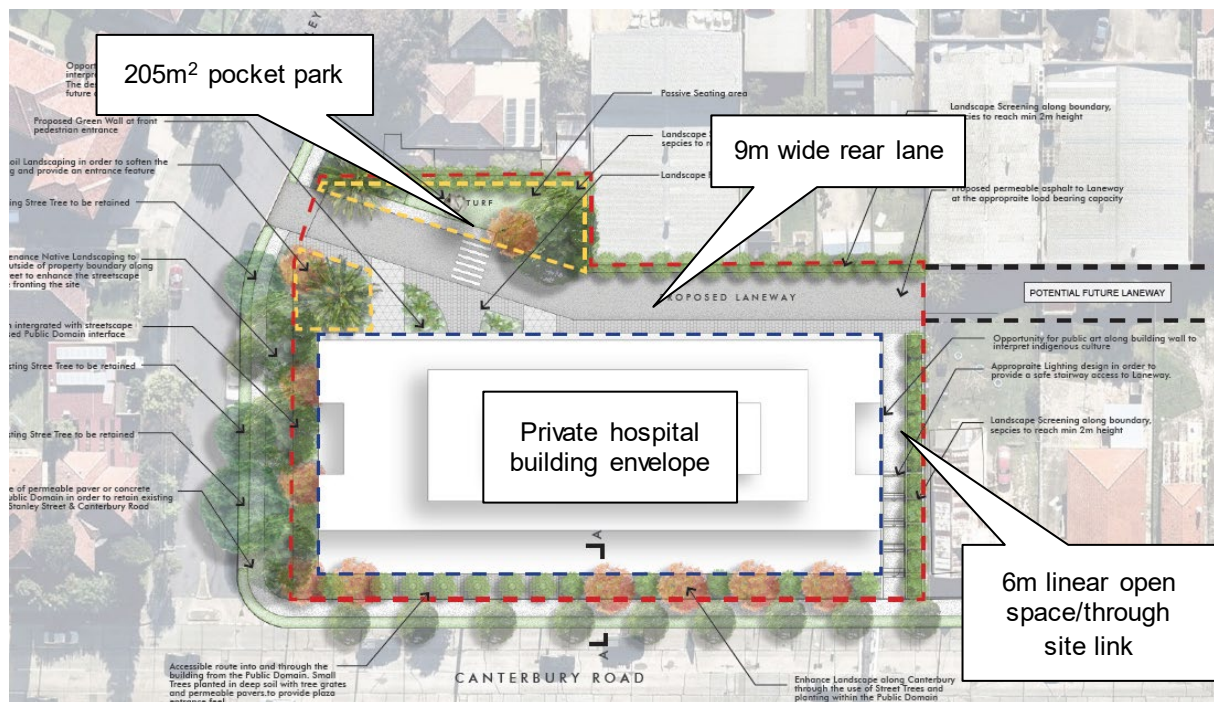


Figure 4: Applicant's development consent scheme

3. SUMMARY

Based on the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the Department's guidelines, the following key policies are relevant to Council's assessment of the application:

- Greater Sydney Region Plan.
- South District Plan.
- State Environmental Planning Policies.
- Ministerial Directions.
- Council's LSPS 'Connective City 2036'.
- The Department's publications: A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals.

In relation to the proposed amendments to the draft Canterbury Bankstown Local Environmental Plan 2021 (CBLEP 2021), Council's assessment findings indicate (summarised in Section 5 below and detailed in the Planning Proposal at Attachment A) the application demonstrates strategic merit as it will:

- Provide a new 218 bed private hospital use on the site that directly aligns with the Council's LSPS intent for an Eastern Lifestyle and Medical Precinct and fills an important gap in health infrastructure where no private hospital currently exists in the Canterbury Bankstown LGA. NSW Health Local Health District has advised the proposal could assist Canterbury Hospital meet the demand for health services as a result of future projected population growth in the area, in particular elective surgical procedures that are regularly performed in the private sector could ease pressure on the hospital's waitlist.
- Contribute 453 jobs towards the growth target in the LSPS and South District Plan, specifically knowledge intensive jobs linked to health and medical services.
- Deliver a building envelope that will facilitate a private hospital use and that is compatible with the adjoining residential, and business zonings.

- Increase deep soil planting to contribute towards Council's LSPS tree canopy target of 15% within commercial centres.
- Deliver traffic management and mitigation measures to minimise traffic congestion along Canterbury Road and adjoining streets including the removal of 4 access points off Canterbury Road.
- Contribution towards establishing new cycling connections within the surrounding area.

Table 3 below summarises the current controls and the changes proposed by the revised application.

Table 3: summary of current (same as the draft CBLEP 2021) and proposed controls

Current controls		Proposed controls
Zone	B6 Enterprise Corridor Zone	B6 Enterprise Corridor Zone
FSR	N/A	Maximum FSR of 5.1:1 for hospital uses only. NB: The draft Campsie Town Centre Master Plan Planning Proposal will propose to apply a maximum FSR of 3:1 for the site for other uses.
Building height	12m	44.1m – 45.5m NB: it is proposed to include a local provision clause under Part 6 of the LEP to permit alternative maximum building heights. See 'Local provision clause' below.
Minimum subdivision lot size	N/A	N/A
Local provision clause	N/A	A clause in Part 6 of the draft CBLEP 2021 is proposed to apply specific height controls for a hospital on the site Refer to Table 2 for details.

The strategic and site specific merit of the proposal is able to be met subject to implementing the recommendations of this report and as follows in Section 4.

4. ASSESSMENT

4.1 Consistency with Strategic Planning Framework

4.1.1 Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan (GRSP) was released by the GSC in March 2018. It provides a 40-year vision for the Greater Sydney region and is designed to inform district and local plans and the assessment of Planning Proposals.

The Greater Sydney Region Plan identifies several key objectives around the need to ensure communities are healthy, resilient and socially connected; and improving housing supply to all groups in the community. The proposal will facilitate economic investment in the Canterbury Bankstown LGA during the construction and operational phases and provides a new hospital facility where there is demonstrated need and a lack of any private hospital facilities in the LGA currently (see Section 4.1.2). The Planning Proposal is consistent with several planning objectives in the GSRP. These include:

- Objective 4: Infrastructure use is optimised
- Objective 6: Services and infrastructure meet communities' changing needs.
- Objective 7: Communities are healthy, resilient and socially connected
- Objective 14: A Metropolis of Three Cities - integrated land use and transport creates walkable and 30 minute cities

4.1.2 South District Plan

The GSC released the South District Plan on 18 March 2018 to give effect to the GSRP. The South District Plan contains priorities and actions to guide the development and planning of the south district while improving the district's social, economic and environmental assets.

The redevelopment of the site that would result from this proposal will facilitate a more activated local precinct by providing around 453 FTE jobs and increased opportunities for social interaction on the site and a significant health infrastructure investment which aligns with the following South District Planning Priorities:

- Planning Priority S3 – Providing services and social infrastructure to meet people's changing needs.
- Planning Priority S4 – Fostering healthy, creative, culturally rich and socially connected communities.
- Planning Priority S9 – Growing investment, business opportunities and jobs in strategic centres.
- Planning Priority S12 – Delivering integrated land use and transport planning and a 30-minute city.
- Planning Priority S15 – Increasing urban tree canopy cover and delivering Green Grid connections.

The application will facilitate delivery of transit-oriented development and co-locate facilities and social infrastructure which is consistent with the principles for strategic centres in the South District Plan and will contribute to the 30 minute city vision of the Plan by providing employment opportunities and a new health services facility in Campsie.

The site is well connected to existing and future public transport infrastructure that will serve the future workers at the private hospital. The site is located within 800m of Campsie Railway Station which will be a future Metro Station and have high frequency metro train services that will provide connections with the Sydney Metro and Trains network. The site is also situated on Canterbury Road which is a strategic bus route that provides services to the surrounding area of Campsie and key centres to the north and south including Burwood and Rockdale.

The location of public and private hospital services in Campsie will support the growing needs of the community. This is especially important as the Canterbury Bankstown LGA will need to accommodate a significant portion of future population growth as identified in the South District Plan and the 50,000 dwelling target of the Canterbury Bankstown Housing Strategy and targeted growth in the draft Campsie Master Plan (6,360 dwellings and 2,700 jobs). The revised Social and Economic Impact Assessment submitted with the application and peer reviewed by independent consultants, notes that the Primary Study Area, that includes Canterbury Bankstown, Strathfield, Burwood and Inner West LGAs has a hospital bed provision (public and private) of 1,019 beds which is approximately 1.6 beds per 1,000 population. For comparison, in 2017-2018, Australia had an average of 3.9 beds per 1,000 people. Based on population projections and demographic profile, the Primary Study Area will require an additional 2,630 beds by 2036. The proposed hospital will cater for an additional 218 beds.

Preliminary discussions held between the applicant and Central and Eastern Sydney Public Health Network in 2019 indicated demand in the area for health care in aged care, health, paediatric care and specialists for community members with Non-English speaking backgrounds. A letter from the NSW Health Sydney Local Health District submitted with the application stated the proposal on the site could assist Canterbury Hospital meet the demand for health services as a result of future projected growth in population in the area.

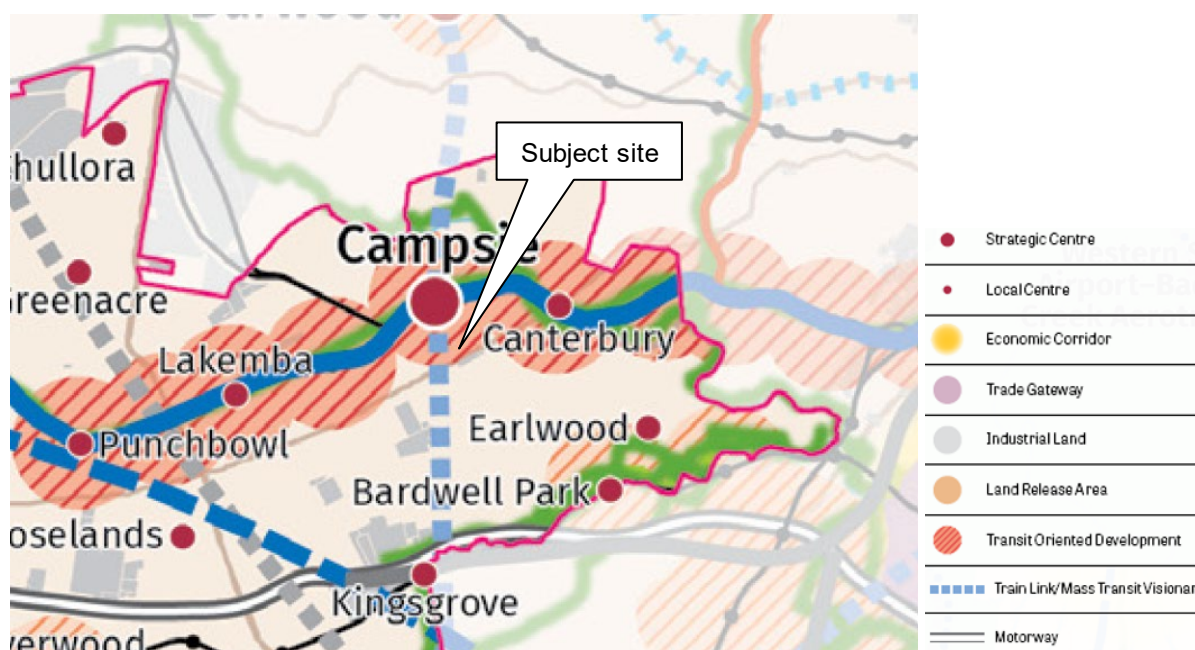


Figure 5: Structure Plan for the South District (Source: South District Plan, page 11)

4.1.3 Local Strategic Planning Statement – ‘Connective City 2036’

The Planning Proposal is consistent with Council’s LSPS and will make an important contribution towards realising the vision for Campsie to Kingsgrove as an ‘Eastern Lifestyle and Medical Precinct’ (see Figure 6). One of the central components of this vision is optimising and leveraging the existing medical and support services, retail and other commercial services along Canterbury Road to create a cohesive medical precinct. The proposal will facilitate the redevelopment of the subject site into a new private hospital, which will complement the existing Canterbury Hospital and provide further opportunities for medical and allied health services to cluster around Canterbury Road and the Campsie Strategic Centre.

The site is strategically located within the Eastern Lifestyle and Medical Precinct and will provide a modern health facility that meets the community's health needs and supports knowledge intensive jobs. The redevelopment of the site facilitated by the Planning Proposal would generate at 453 jobs in health care services once operational which contributes around 6% of the total jobs target of 7,500 by 2036.

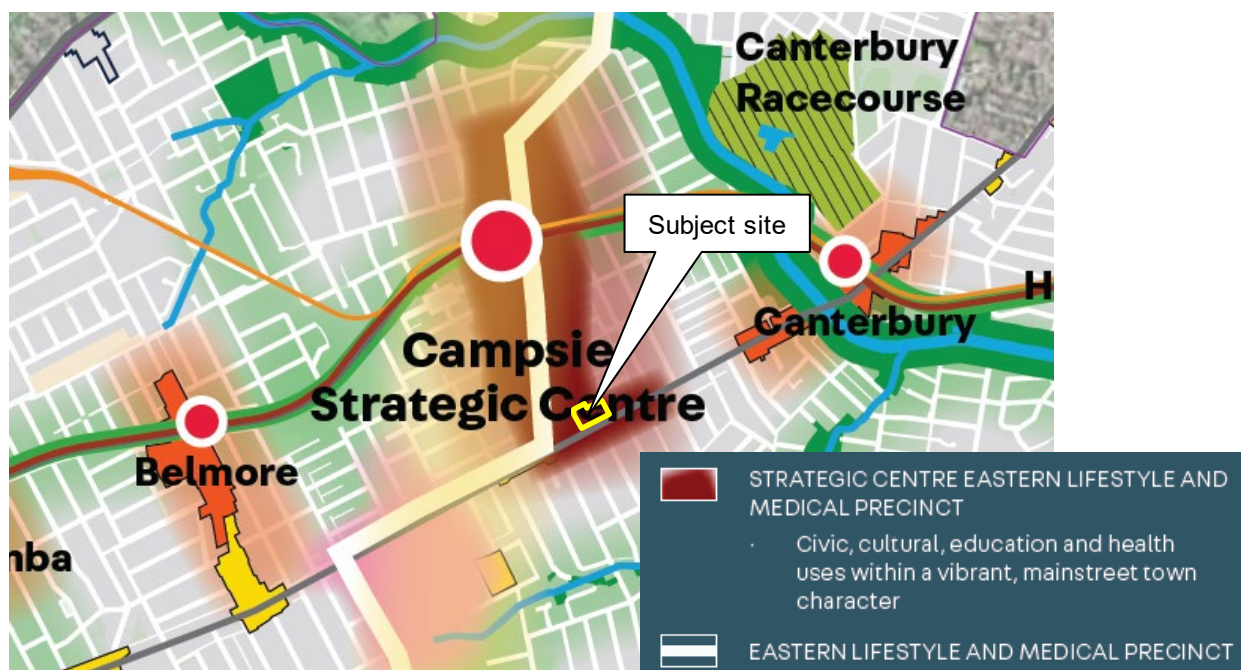


Figure 6: The LSPS 'Connective City 2036' plan showing the location of the site in context of the Eastern Lifestyle and Medical Precinct (Source: Connective City 2036, page 1)

The Planning Proposal is consistent with the following key relevant LSPS objectives:

Evolution Three – Places for Commerce and Jobs

- E3.1.56: Provide capacity for 7,500 jobs in Campsie Town Centre by 2036.
- E3.2.62: Plan for a health precinct that includes urban services anchored by Canterbury Hospital in Campsie.

Evolution 6 – Urban and Suburban Places

- E6.2.115: Confirm the role of Campsie as the City's second strategic centre through master planning and precinct planning.

Evolution 9 – Sustainability and Resilience.

- E9.5.177: Include measures to facilitate low-emission forms of transport (public transport, cycling, walking) in place- TfNSW, CBC based transport planning

4.1.4 Draft Campsie Town Centre Master Plan

The Draft Campsie Town Centre Master Plan sets the strategic planning basis to amend the planning controls for Campsie Town Centre aimed at facilitating jobs, housing, design quality, sustainability and movement aspirations. The Draft Master Plan has been publicly exhibited and was reported to the Canterbury Bankstown Local Planning Panel in September 2021. In response to the advice received from the Local Planning Panel, Council will undertake further

public consultation before reporting the draft Master Plan, with any amendments to address matters raised in submissions, to a Council Meeting in early 2022.

The draft Master Plan recognises the strategic context for the proposal and makes recommendations for this Planning Proposal as set out in the table below. The draft Master Plan notes in relation to this application, that *“Further built form analysis and traffic and transport analysis is required based on the potential for specialised, employment generating land uses on this site, as the Planning Proposal is based on a significantly scaled health services facility, which requires detailed analysis beyond the scope of this master plan.”* This further analysis has been undertaken in the assessment of the proposal as described in this report and attachments.

Table 4: *Response of Planning Proposal to Draft Campsie Town Centre Master Plan recommendations / comments for the site*

Draft Master Plan Recommendations / Comments	Response
<p>The Master Plan supports an uplift in density in this location, particularly given its proximity to the Canterbury Road/Beamish Street node and the Campsie Medical Cluster, anchored by Canterbury Hospital.</p>	<p>The draft Master Plan’s support for the proposed FSR and building height uplift on the site is noted. This application seeks to allow for the uplift only for a hospital use of the site.</p> <p>The draft Master Plan supports a 10 storey building envelope equivalent to 39.5m building height. This building height was devised to maintain solar access to future apartment development on the southern side of Canterbury Road. It is stated in the draft Master Plan and the September 2021 LPP report that further built form analysis would be undertaken as part of the application.</p> <p>The proposal maintains the height established in the draft Master Plan and has undertaken more detailed solar access modelling and analysis than completed for the draft Master Plan. This modelling has shown there is scope to include an additional 4.6m building height that is setback from Canterbury Road without adversely impacting solar access to the future residential apartments on the opposite side of Canterbury Road. This additional 4.6m is included in the proposal and would be used for mechanical plant to service the future private hospital. A minimum setback is proposed to be included in the <i>Additional Local Provisions</i></p>

Draft Master Plan Recommendations / Comments	Response
	clause to require this additional 4.6m building height to maintain solar access to the aforementioned future residential apartment development.
Large scale redevelopment of this site has the opportunity to significantly enhance the offering of specialised employment in Campsie and has the potential to contribute to the Campsie Medical Cluster.	Noted. The redevelopment of the site facilitated by the application would generate at 453 jobs in health care services once operational which contributes around 6% of the total jobs target of 7,500 by 2036.
This site is currently not subject to an FSR control. Based on testing of an appropriate built form, taking into consideration the current land use and height controls, it is recommended that a maximum FSR of 3:1 be introduced.	<p>The Planning Proposal concept development envisages a total GFA of 22,478m² which equates to a total FSR of approximately 5.1:1. Whilst a higher FSR than referred in the draft Master Plan, it is noted that the draft Master Plan identifies the site FSR as being <i>“subject to further testing through a separate Planning Proposal”</i>.</p> <p>It is noted that the draft Master Plan contemplates a maximum height of 39.5m across the entire site and not the additional height proposed in this Planning Proposal along the northern side of the building nor does the draft Master Plan consider a split ground/lower ground arrangement as shown in the concept design scheme. The additional FSR proposed in those locations explains the different FSRs between the proposal and draft Master Plan. Notwithstanding, the FSR of 5.1:1 proposed has been tested to be acceptable in terms of solar access provision. Further it is noted that the proposal seeks to permit the height and FSR as specific to hospital uses on the site which reflects the broader jobs creation and provision of health infrastructure for Campsie and the Canterbury Bankstown LGA that would be facilitated once developed.</p>

Draft Master Plan Recommendations / Comments	Response
	In addition to the proposed site specific LEP clause, building bulk and massing will also be controlled by the use of setback controls in the site specific DCP.
The height proposed by the applicant exceeds the recommended Master Plan height and therefore the impacts of taller development on this site, need to be balanced with the potential overshadowing impacts to the southern side of Canterbury Road. This can be resolved best through a standalone Planning Proposal process with detailed design analysis.	The applicant has submitted detailed overshadowing analysis that has been reviewed by Council that demonstrates the future redevelopment of land on the southern side of Canterbury Road will be able to achieve compliance with the Apartment Design Guide and SEPP 70 solar access requirements. Site specific DCP controls will need to be established prior to public exhibition to protect solar access and support compliance.
It is recommended the B6 Enterprise Corridor zoning be retained on this site.	Agreed. The application retains the B6 zoning of the site.

The Planning Proposal is broadly consistent with the directions and objectives of the draft Campsie Town Centre Master Plan and will be progressed separately to the Campsie Town Centre Planning Proposal to allow for a more efficient assessment timeframe and to allow for the resolution of site-specific issues relating to building height, traffic and transport management and site contamination.

The draft Master Plan includes the following proposed controls for the site subject site:



Figure 7: Campsie Town Centre Master Plan Proposed Zoning Map

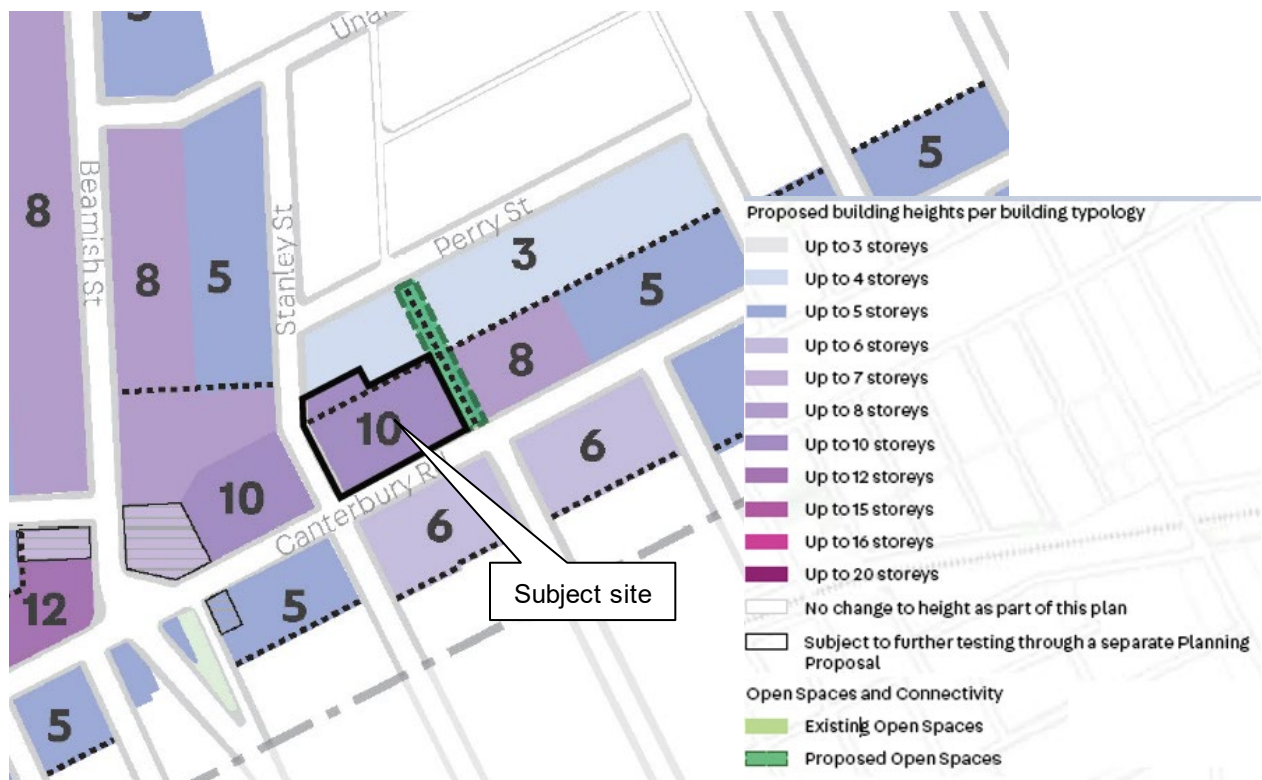


Figure 8: Campsie Town Centre Master Plan Proposed Height Map



Figure 9: Campsie Town Centre Master Plan Proposed FSR Map

4.2 Building Height

Solar Access Impacts

The proposal seeks a maximum building height of 44.1m measured from Canterbury Road and 45.5m from the northern side of the site along the future rear laneway to facilitate redevelopment for a private hospital building comprising part 10 and 11 storeys and rooftop mechanical plant. The building height in terms of storeys is generally consistent with the draft Campsie Town Centre Master Plan building height envisaged for the site of 10 storeys to Canterbury Road.

However the draft Master Plan contemplates floor to floor heights between 3.7m – 4.4m for a commercial development and not the floor to floor heights required by hospital uses which are up to 5m to accommodate building services including mechanical, electrical, fire, hydraulic and medical gasses that typically require an allowance of up to 1.2m in the ceiling space in operating theatres and other hospital spaces requiring high sterile environments including isolation rooms.

The application originally proposed a maximum building height of 56m and following Council's assessment, the height was reduced to 44.1m fronting Canterbury Road to maintain acceptable solar access to the future development of land to the south of Canterbury Road located at 1-5 Robertson Street and 412-416 Canterbury Road, for six storey residential development (R4 High Density Residential zoned land under the Draft Campsie Town Centre Master Plan). The further solar access impact analysis prepared by the applicant held at Attachment A confirms the future residential apartments on the affected properties will receive at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm on 21 June (Winter Solstice). Refer to Figure 10 below that shows the solar access to a future residential apartment development (with ground floor retail) at 9am, 12pm and 3pm.

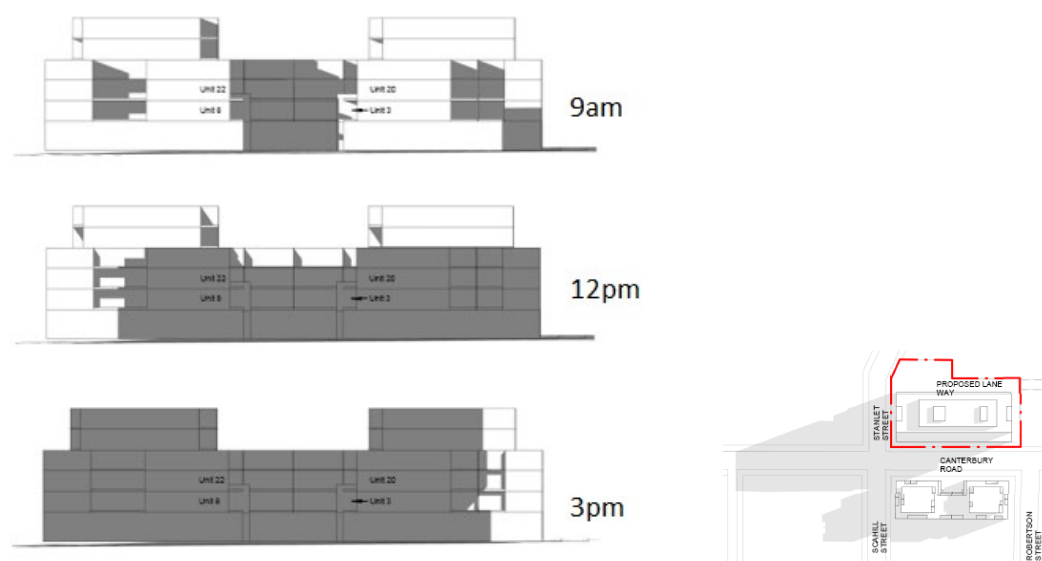


Figure 10: Winter Solstice solar access diagrams at 9am, 12pm and 3pm showing the north facing elevation of a potential future residential development on 1-5 Robertson Street and 412-416 Canterbury Road, Campsie (opposite the site, shown in inset).

To ensure planning controls are implemented to preserve the solar access to future residential development on these affected properties it is proposed to apply a site specific clause in Part 6 of the Draft CBLEP to limit the maximum building height and apply setback requirements for the topmost portion of the future development to reflect the solar access modelling that has been undertaken. The site specific local provision will only apply to a hospital use on the site to accommodate the increased floor to floor heights and rooftop mechanical plant operational requirements. It is proposed that the site specific DCP to be exhibited concurrently with the Planning Proposal will include detailed building controls such as minimum setbacks for all building levels to ensure acceptable solar access is received by future residential apartment development on the south of the site on Canterbury Road and building mass and bulk is minimised. The site specific DCP will include setbacks that will be informed by the solar access modelling already undertaken for the proposal.

This approach maintains the integrity of the Draft Master Plan vision for the site, provides certainty for the community that only a hospital use will be able to take advantage of the increased building height and will ensure that there is no precedent for increased building heights elsewhere along Canterbury Road for non-hospital uses.

Building Height Control and Building Height Transition

The western half of the site is located within the Beamish Street/Canterbury Road 'node' as included in the Canterbury Road Review (2017). The Review envisages 'nodes' 'to be the focus of development and additional built form to reinforce connective streets critical to linking Canterbury Road the surrounding area to the north.

The nodal approach has been adopted in the Draft Campsie Town Centre Master Plan and Canterbury Road Strategy which seeks to cluster taller buildings of 10-12 storeys around the Beamish Street/Canterbury Road intersection to signify the entrance to Campsie Town Centre. The draft Master Plan provides a finer grain approach to the 'node' and identifies the area around the Beamish Street and Canterbury Road intersection as 'The Entrance' and the 'Campsie Medical Precinct'. The proposal remains consistent with the objectives of the draft Master Plan in this section of Canterbury Road and will maintain the intention for a transition in building heights stepping down from 'The Entrance' node to the east and west. This is achieved by the proposal maintaining a 10 storey built form envelope to Canterbury Road as established in the draft Master Plan, noting that the draft Master Plan states that the building height for the site would be *"Subject to further testing through a separate Planning Proposal"*.

The proposal maintains the 10 storey building height in the draft Master Plan when viewed from Canterbury Road however the taller floor to floor heights and mechanical plant that are requirements of a hospital use to accommodate medical equipment within operating theatres and for health related mechanical plant result in a taller overall building height than the 39.5m modelled by Council. It is intended that the site specific DCP will include the following minimum building setbacks for a hospital use, as shown in the applicant's development concept scheme, to ensure an appropriate built form outcome:

- 3.5m setback from Canterbury Road and continuing up to the 8th storey.
- 9.5m setback from Canterbury Road for storeys 9 and 10.
- 6m from eastern boundary.
- 3.5m from Stanley Avenue.
- 9.3m setback from the northern boundary with 34-42 Perry Street, Campsie.
- 21.8m setback from northern boundary with 20 Stanley Street, Campsie.

It is proposed that the site specific LEP clause includes minimum setbacks for the building as measured from the Canterbury Road boundary and other site boundaries to maintain solar access to the surrounding properties. This is to provide greater certainty that setbacks are complied with as part of the SSDA process.

Figure 11 below provides a diagrammatic explanation of the intended outcome of this provision in relation to building height.

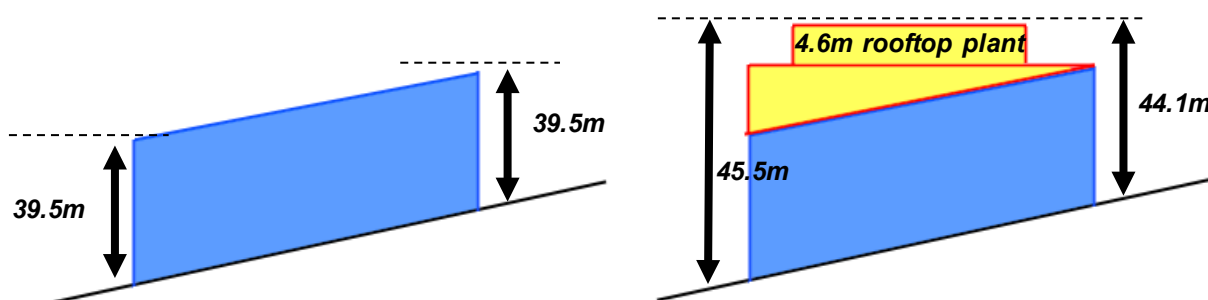


Figure 11: Illustration of proposed building height control. Left: The building height of 39.5m envisaged under the Draft Campsie Town Centre Master Plan. Right: 'Additional height' for hospital uses up to 45.5m on the northern side of the site and 44.1m to Canterbury Road side inclusive of rooftop mechanical plant (modelled at 4.6m).

Proposed Density Control

The applicant's concept development scheme has a total GFA of 22,478m² which equates to an FSR of 5.1:1. The application seeks to therefore include this maximum FSR control to limit the floor area permitted on the site for hospital uses recognising the specialised nature of hospital uses requiring large, unencumbered floor plates and building envelopes compared to other uses permitted in the B6 Enterprise Corridor Zone.

The draft Campsie Town Centre Master Plan recommends a maximum FSR of 3:1 on the current uses for B6 zoning, which does not include a Hospital use. It is envisaged that a future Planning Proposal, separate to this one, will seek to implement the draft Campsie Town Centre Master Plan including a maximum 3:1 FSR on this site for standard uses in the B6 zoning.

The site specific LEP controls for a hospital use on the site including a maximum FSR of 5.1:1, together with the building height of 44.1m to Canterbury Road and 45.5m to the northern side of the building will be supported by site specific DCP controls not limited to; building setbacks, building articulation, streetscape and desired future context requirements along Canterbury Road as set out in the Canterbury Road Review and draft Master Plan. It is noted that the maximum FSR is not 'as of right', and any future Development Application must demonstrate how future development on the site does not result in an unreasonable adverse environmental impact on adjoining land and the surrounding area.

4.3 Site Contamination

Prior to the use of the land for health services facility purposes, the site is to be remediated based on the Detailed Site Investigation, draft Remediation Action Plan (RAP) and Data Gap Investigation provided to support the Planning Proposal. Based on Council's review of the expert advice within these reports, it is recommended that a Site Audit Statement and Site Audit Report be provided prior to exhibition to verify the methodology of the reports and the conclusion of the draft RAP. The draft RAP concludes that the site can be made *"suitable for the proposed land use with no ongoing management"* with the completion of remediation works at the DA stage. The remediation works will be focused on addressing the presence of metals, benzo(a)pyrene and total recoverable hydrocarbons (TRH) which the draft RAP and Data Gap Investigation reports identified as exceeding the adopted ecological criteria for groundwater.

4.4 Flooding

Minor parts of the site are affected by 100 Year Average Recurrence Interval (ARI) and Probable Maximum Flood (PMF) flooding events. The flooding impacts for the 100 Year ARI are isolated to the north western corner of the site, with only minimal flooding impacts modelled flood water depths of 10cm to 30cm, which is a relatively low hazard risk (refer to Figure 12). The PMF impact includes the north western corner, north eastern and south eastern boundaries of the site (refer to Figure 13) and will be addressed in detail at the DA stage through a comprehensive Stormwater Management Plan.



Figure 12: 100 Year Average Recurrence Interval map for the site

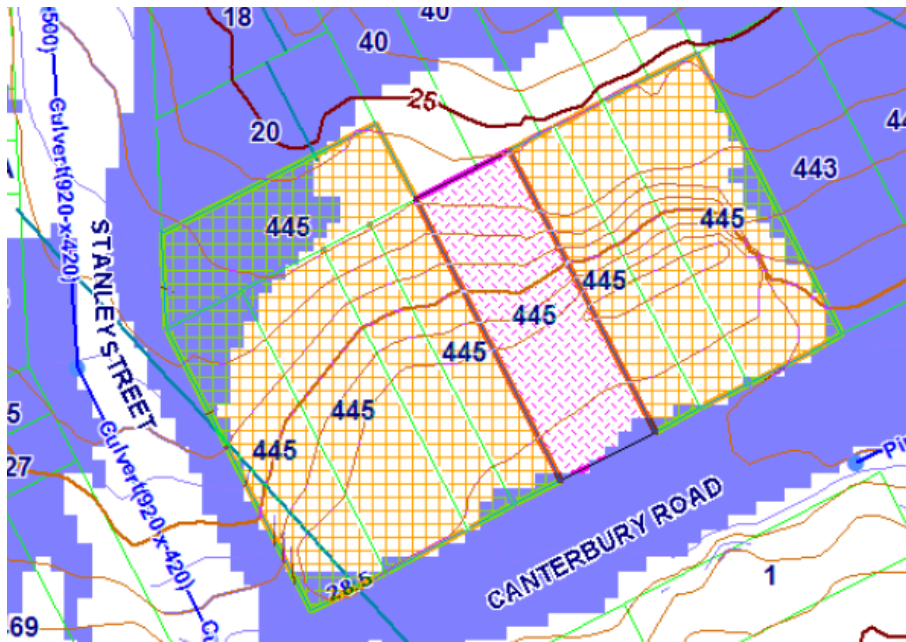


Figure 13: PMF flooding map for the site

The applicant submitted a flooding impact statement that concludes the following:

- *“The peak site 1% AEP flood level is approximately 26.30-26.45m AHD and is low hazard.*
- *1% AEP floodwaters on site are classified as ‘flood fringe’ and are located outside the proposed building footprint.*
- *In the PMF, flood waters flow around the local high point of the site, and the proposed building footprint lies outside the PMF extents.*
- *The peak site PMF level is approximately 28.8-29.0m AHD and is low hazard on the site, but high hazard in Canterbury Road and Stanley Street.*
- *PMF waters on site are classified as ‘flood fringe’, and flood waters in Canterbury Road and Stanley Street are classified as ‘floodway’.*
- *As the proposed building is located outside of the 1% AEP and PMF extents, there will be no loss of flood storage and the proposed development will not cause material off-site impacts in the 1% AEP flood or PMF events.*
- *Although the building footprint is not affected by the PMF, shelter-in-place is the preferred emergency response strategy due to high hazard flooding in Canterbury Road and Stanley Street in the PMF event. These roads would only be affected for a short time (likely 1-2 hours at most) during the peak of the PMF event due to the small size of the catchment, which is considered an appropriate duration to shelter-in-place.”*

Council’s Asset Planning – Stormwater team has reviewed the flooding impact statement submitted by the applicant and confirm that the application satisfies the Ministerial Direction 4.3 – Flooding and provides the following comments:

- **Basement Carpark** – Due to the nature of the basement carpark with inherent increased risk of entrapment and hazard during flooding, it is recommended that the basement is protected against flooding for events up to the PMF. This includes all potential entry points for water ingress including the main driveway, stairwells and vents.

- Emergency Vehicle Access – Whilst refuge-in-place is noted as the primary means of management during a PMF flood, it is recommended that emergency vehicle access is provided to allow for entry and egress from the site during flooding events up to the PMF. This can take into account the anticipated flooding depths that can be safely traversed by a typical emergency vehicle.

Recognising the low hazard on-site flooding risk, and the minimal area of the site impacted by potential flooding, the above flooding implications raised by Council's Asset Planning – Stormwater team will be addressed prior to exhibition through development controls to be included as part of the site specific DCP. The site specific DCP will require a detailed flood emergency management plan to be developed as part of any future Development Application on the site.

4.5 Traffic Generation, Vehicle Access and Parking

The applicant's concept development scheme includes a total of five levels of basement car parking with a total of approximately 382 car parking spaces and a servicing area with four loading bays for service vehicles. All vehicle access to the site will be via the future rear lane off Stanley Street. The future development of the site for a private hospital would no longer have direct vehicle access to Canterbury Road which is a regional 'classified road' managed by Transport for NSW (TfNSW).

Council engaged a traffic consultant to peer review the applicant's traffic report submitted with the application. Following a peer review, Council met with TfNSW to present the application and provide an opportunity for TfNSW comment on the proposal. Written comments were received in from TfNSW that requested a range of matters including further analysis and traffic intersection modelling, and clarification regarding the modal splits and car parking demand/provision for the future private hospital use.

In response to the Council's traffic engineer, peer review consultant assessments and comments received from TfNSW, a revised traffic impact assessment and additional traffic modelling was submitted by the applicant in August 2021. The revised traffic information proposes a range of traffic management and congestion mitigation measures to minimise the potential traffic impacts on Canterbury Road and the surrounding streets once the private hospital is operational. The measures are shown in Figure 14.

The traffic modelling results indicates that the proposed improvements would improve overall intersection performance to an acceptable Level of Service (LoS) at D or better during peak periods. The exception to this would be at the Beamish Street -Bexley Road - Canterbury Road intersection, which would continue to operate at LoS of F.

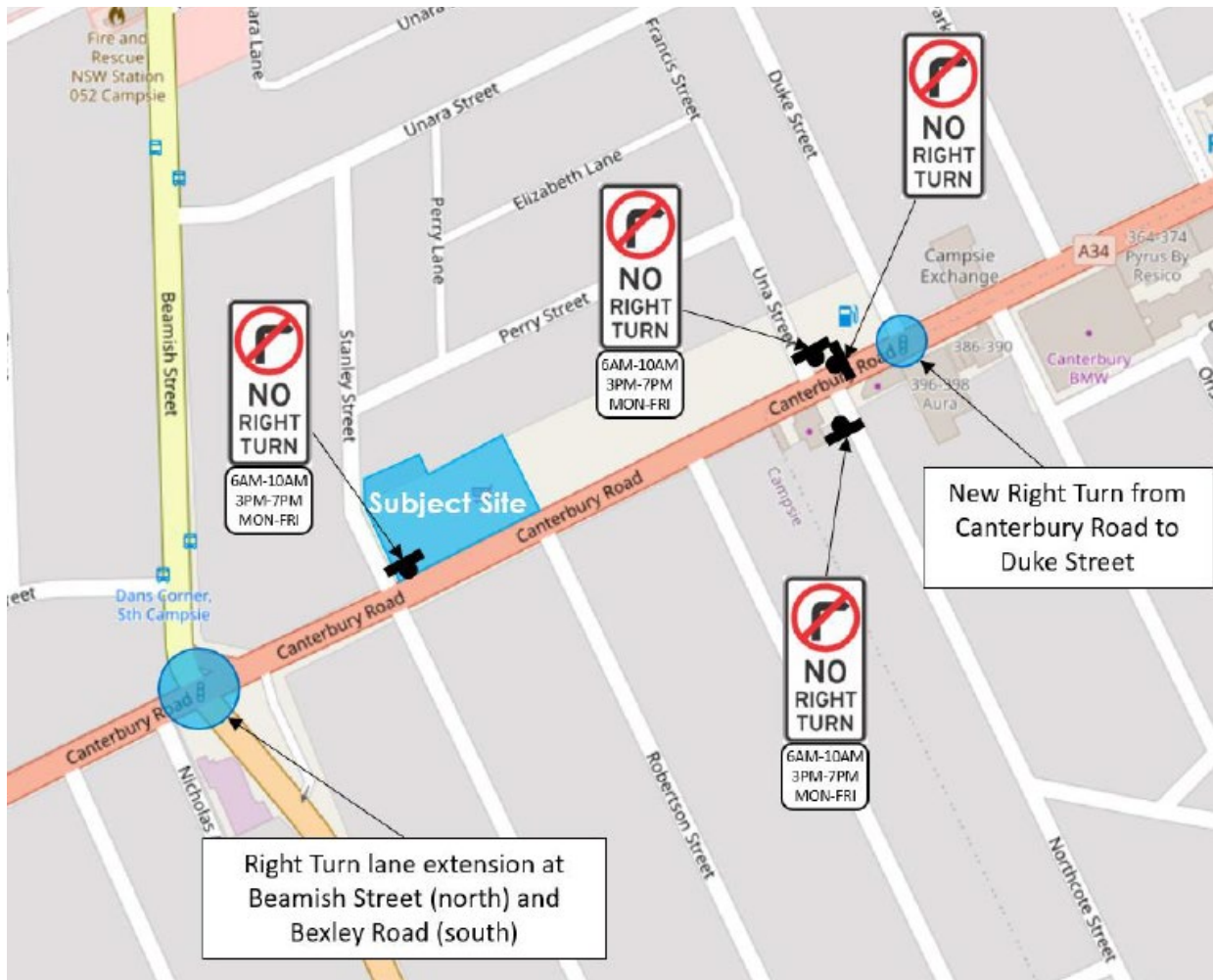


Figure 14: Proposed traffic management measures to address traffic implications of the proposal once operational

Analysis of Traffic Impacts and Recommended Changes

The applicant's traffic impact statement and proposed traffic management measures to minimise the traffic and congestion likely to result from the future redevelopment of the site for a private hospital has been reviewed by Council's Traffic and Transport Team and have been supported in principle, subject to the following additional work being undertaken prior to exhibition of the Planning Proposal:

- Consultation with residents and businesses within a 500m radius of proposed changes to turning restrictions and traffic signals is to be undertaken, including all residents of Northcote Street.
- The traffic island on Stanley Street at the intersection with Canterbury Road, removed for road maintenance purposes by Council, will be reconstructed by Council in the future to maintain the right turn restrictions from Stanley Street to Canterbury Road, therefore the SIDRA modelling and report is to be updated to reflect this (left-in, left-out only).
- The modelled intersection layout in SIDRA of the Stanley Street/New Laneway is to be provided.
- Traffic volume distribution diagrams are to be included for each scenario showing how traffic has been distributed and reassigned.

Council obtained further comments from TfNSW in September 2021 in response to the applicant's proposed traffic management measures. While TfNSW has identified some additional work that is required to resolve traffic and vehicle access implications of the proposal, there is no objection raised to the application progressing to Gateway and the traffic matters being addressed prior to exhibition of the Planning Proposal. This matter is further discussed in Section 8 of the Planning Proposal at Attachment A.

4.6 Public Infrastructure

Council has received a Letter of Offer from the applicant that details the public benefits and infrastructure that would be delivered as part of the LEP amendment for the site. The Letter of Offer has been informed by Council's assessment of the demands placed on the surrounding infrastructure by the site once fully developed as an operating private hospital with 218 beds and up to 453 staff.

In principle, Council agrees with the items included on the Letter of Offer as summarised in Table 7, however Council notes the traffic management works in Item 11 would ordinarily be required as conditions of consent as part of the future Development Application. It is Council's intention to further negotiate with the applicant on the quantum of contribution in items 5, 10 and 11 in the table below in preparation of a draft Planning Agreement to be agreed upon by Council and the applicant for public exhibition concurrently with the Planning Proposal and site specific DCP.

Council will not accept the offsetting of the cost of items on the Letter of Offer and future Planning Agreement from the payment of Section 7.11/7.12 Development Contributions.

Table 5: Proposed list of public benefits and infrastructure to be delivered in conjunction with the Planning Proposal by the applicant as part of a future Planning Agreement

Item No.	Description	Estimated Value
1.	Dedication up to 3.5m of land along the site frontage with Canterbury Road	To be confirmed
2.	Dedication of up to 6m of land along the eastern boundary for the purposes of a future pedestrian through site link	To be confirmed
3.	Dedication of land to provide a laneway of 9m width from Stanley Street to the eastern site boundary	To be confirmed
4.	HPG to ensure provision and maintenance of a small pocket park (minimum 205m ²) and landscaping on the north-west side of the private hospital site with an easement to be created to allow public access and use in perpetuity	To be confirmed
5.	A proportionate contribution to the provision of a cycleway to the Cooks River, with the final amount to be discussed and agreed with Council. Subject to Council's agreement, the indicative route would be via Stanley Street – Unara Street – Duke Street – Redman Street – Wonga Street – Warrigal Street – Phillips Avenue and onto the path through Tasker Park to the Cooks River cycleway	\$25,000

6.	Works to install a new kerb ramp pair on Stanley Street, crossing Perry Street	Works in kind
7.	Upgrade of pedestrian crossing facilities on Stanley Street and Una Street (Zebra-type crossings) near Canterbury Road.	Works in kind
8.	New pedestrian crossing facilities at on Unara Street near Beamish Street and on Stanley Street near Unara Street (Zebra-type crossings)	Works in kind
9.	Provision of public art on the site, including public art to the new pocket park in the north west corner of the site and in the pedestrian through site link on the eastern side of the site	\$150,000
10.	<p>A monetary contribution made to Council to assist with the acquisition of 80 Duke Street, Campsie (private property) to create a new public park</p> <p>The landowner (HPG) is also agreeable to the proposal providing terraces and/or rooftop access to amenity spaces for passive recreation for visitors, staff and patients as part of the overall open space provided on site</p>	\$75,000 (approx. 5% of the value of the property)
11.	<p>A monetary contribution capped at \$300,000 to traffic management works as identified in the TTPP Report submitted to Council in August 2021, such as new traffic signals, traffic signage, lighting, traffic median strips, kerbs etc. required along Canterbury Road and adjoining streets in accordance with TfNSW and Council requirements.</p> <p>This contribution can also be used to provide new or upgraded bus stops in close proximity to the new hospital site</p>	<p>Applicant's estimated value \$300,000 – Council notes the traffic management works would ordinarily be required as conditions of consent as part of the future Development Application. The Applicant would be required to pay the full cost of these works.</p> <p>The contribution towards new or upgraded bus stops is considered a public benefit.</p>

5. RELEATIONSHIP TO CAMPSIE MASTERPLAN IMPLEMENTATION

The application was submitted prior to the public exhibition of the draft Campsie Master Plan in April-June 2021. Rather than rolling this Planning Proposal in with the draft Campsie Master Plan Planning Proposal, it is proposed to progress it separately due to the nature of the proposed use and the benefit associated with supporting investment in new health infrastructure in the city. The draft Master Plan may be updated if Council resolves to proceed with the Planning Proposal to a Gateway Determination.

6. OTHER CONSIDERATIONS

Council has assessed this planning proposal against the justification matters outlined in DPIE's publication *A Guide to Preparing Planning Proposals* and has prepared a draft Planning Proposal (held at Attachment A). The purpose of the draft Planning Proposal is to demonstrate whether there is justification for a proposal to proceed to Gateway based on consistency with the relevant state environmental planning policies and Ministerial Directions.

A key matter for consideration is management of the likely impacts resulting from the proposal, these are primarily; traffic management and road upgrades, remediation of land and solar access on the surrounding area.

The Planning Proposal concludes that the proposal presents both strategic and site specific merit and identifies the need for further information to be provided prior to and post Gateway, should Council decide to progress this Planning Proposal.

-END-