



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

4 February 2019 - 6.00pm

Location:

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

ORDER OF BUSINESS

APOLOGIES AND DECLARATION OF INTEREST

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BASS HILL WARD

- 1 33 Ian Crescent, Chester Hill**
Use of the existing outbuilding as a secondary dwelling and associated fitout
..... 3

Canterbury Bankstown Local Planning Panel - 4 February 2019

ITEM 1	33 Ian Crescent, Chester Hill Use of the existing outbuilding as a secondary dwelling and associated fitout
FILE	DA-856/2018 – Bass Hill
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	13 November 2018
APPLICANT	Boris Grgurevic & Associates
OWNERS	Kanchan Dagaonkar
ESTIMATED VALUE	\$50,000
AUTHOR	Development Services

REPORT

This matter is reported to Council's Local Planning Panel in accordance with the Panels delegation from the minister as the application seeks to vary a development standard by more than 10%. The development standard the applicant seeks to vary relates to the maximum permissible wall height as contained in Clause 4.3(2B)(a) of the Bankstown Local Environmental Plan 2015. The applicant proposes a maximum wall height of 4.19 metres, resulting in a 39% variation to the development standard.

Development Application No. DA-856/2018 proposes to convert the existing outbuilding to a secondary dwelling and the associated fit out of the structure.

DA-856/2018 has been assessed against State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP), Bankstown Local Environmental Plan 2015 (BLEP 2015) and Bankstown Development Control Plan 2015 (BDCP 2015). The application fails to comply in regards to BLEP 2015 Clause 4.3(2B)(a) height of buildings (maximum wall height) and BDCP 2015 - Part B1 Clause 3.4 and 3.10 in regards to maximum wall height and the setbacks to the side and rear boundary.

As detailed in this report, the proposed non-compliances with the maximum wall height and setback to the side and rear boundary are considered worthy of support.

The application was notified to the surrounding properties as required by BDCP 2015 for a period of 14 days. No submissions were received during this period.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the conditions included at Attachment 'B'.

ATTACHMENTS

- A. Section 4.55 Assessment Report
- B. Conditions of Consent

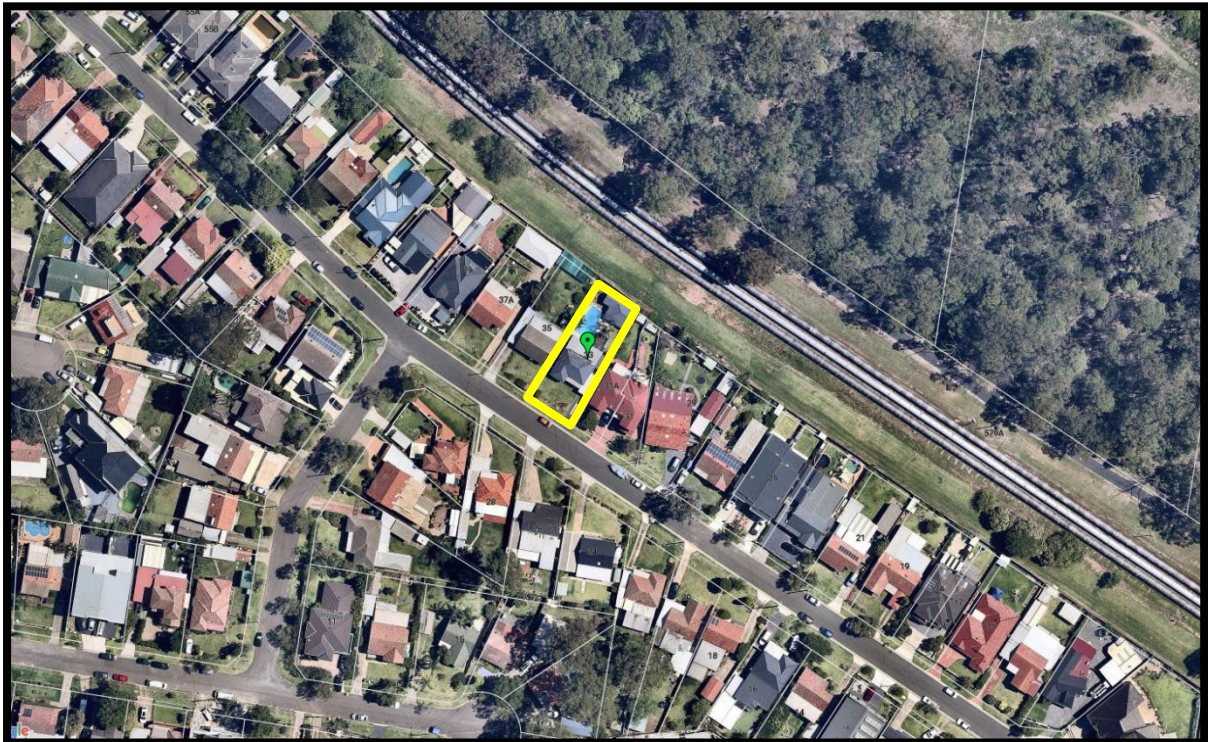
DA-856/2018 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is rectangular in shape with a frontage of 15.24m to Ian Crescent and has a total site area of 558m². The land gently falls to the rear with the low point at the sites' north western corner. Currently occupying the site is a single storey dwelling with a hipped tile roof, an inground swimming pool and a detached outbuilding.

The surrounding developments include a variety of single and two storey residences. Adjoining the site to the east is a two storey attached dual occupancy development while to the west is a single storey dwelling with tile roof. Immediately to the rear is a Sydney Water drainage pipeline.

The context of the site is illustrated in the following aerial photo:



PROPOSED DEVELOPMENT

DA-856/2018 proposes the use of the existing outbuilding as a secondary dwelling and associated fit out.

The proposal will reflect the same building footprint with works being confined to the fit out of the structure for habitable purposes. The proposal includes two bedrooms, a kitchen, meals room, living room, bathroom and laundry room, all separate to the principal dwelling.

The external appearance and built form remains largely the same. Minor external changes to the building are proposed which include the addition of new windows and doors and the removal of existing windows and doors.

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)]

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 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.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of Clause 7 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 and no excavation is proposed as part of this development application with all proposed work limited to the internal of the existing outbuilding. 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 and therefore satisfies the provisions of SEPP No. 55.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The provisions of Clause 22 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* specifies that a consent authority must not consent to the carrying out of development for the purposes of a secondary dwelling unless:

- (a) *the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*
- (b) *the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.*

The SEPP also specifies that a consent authority must not refuse consent to development to which this Division applies on either of the following grounds:

- (a) **site area** if:
- a. *the secondary dwelling is located within, or is attached to, the principal dwelling, or*
 - b. *the site area is at least 450 square metres,*
- (b) **parking** - *if no additional parking is to be provided on the site.*

An assessment of the development application has revealed that the proposal complies with the matters raised above. Covered parking is provided by way of an existing carport forward of the proposed secondary dwelling (adjacent the principal dwelling).

The table below is provided to demonstrate the proposals compliance with the numerical controls as set out in the Clause 22 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
Number of dwellings	Two	Two	Yes
Total Floor Area	Max. 279m ² (558/2)	161.297m ² (104.147m ² + 57.15m ²)	Yes
Floor Area of Secondary Dwelling	Max. 60m ²	57.15m ²	Yes

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

A valid BASIX Certificate accompanied the Development Application. The Certificate details the thermal, energy and water commitments which are also detailed on the submitted plans. The proposal satisfies the requirements of *State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004*.

Bankstown Local Environmental Plan 2015

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

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 4.1B – Minimum Lot Sizes and Special Provisions for Certain Dwelling

Clause 4.3 – Height of buildings

Clause 4.4 – Floor space ratio

Clause 4.5 – Calculation of floor space ratio and site area

Clause 4.6 – Exceptions to development standards

Clause 5.4 – Controls relating to miscellaneous permissible uses

An assessment of the development application has revealed that the proposal complies with the matters raised in each of the above clauses, with the exception of a variation proposed to Clause 4.3 Height of buildings (wall height).

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

STANDARD	PERMITTED	PROPOSED	COMPLIANCE
Height of Buildings for Secondary Dwellings	Max 3m – wall	Max. 4.19m (wall height)	No – see justification below
	Max 6m - building	Max. 4.36m (building height)	Yes
Floor space ratio (specific site)	Max. 0.50:1	A GFA of 161.297m ² is proposed resulting in a FSR of 0.28:1	Yes

Clause 4.3 – Height of Buildings

Clause 4.3(2B)(a) – Height of buildings of BLEP 2015 refers to the maximum permitted height of buildings for secondary dwelling developments in the R2 Low Density Residential Zone as having a maximum building height of 6m and a maximum wall height of 3m. It reads as follows:

4.3 Height of buildings

(1) *The objectives of this clause are as follows:*

- (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,**
- (b) to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone R2 Low Density Residential,**
- (c) to provide appropriate height transitions between development, particularly at zone boundaries,*
- (d) to define focal points by way of nominating greater building heights in certain locations.*

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

(2A)...

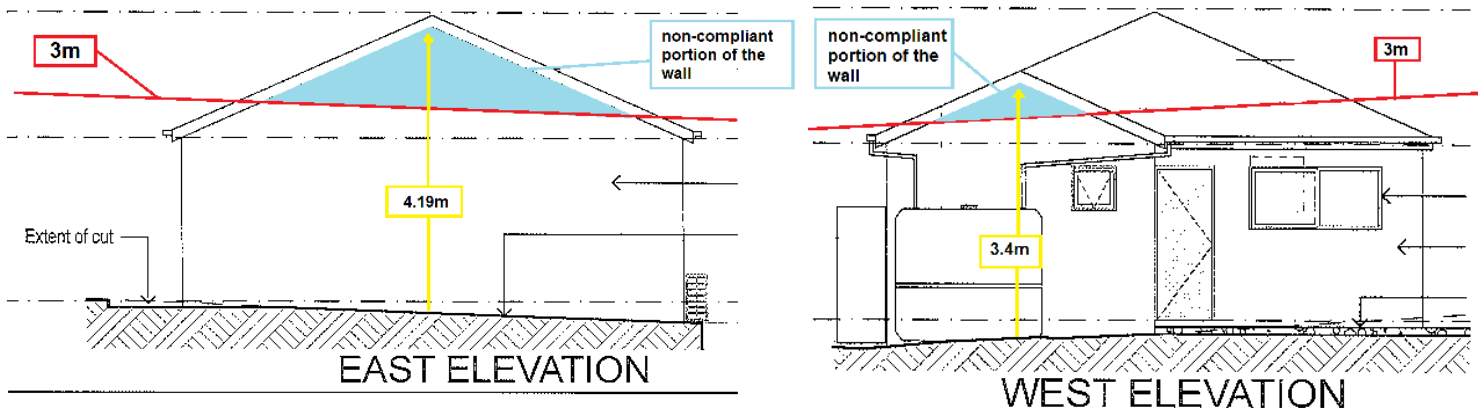
(2B) Despite subclause (2), the following restrictions apply to development on land in Zone R2 Low Density Residential:

- (a) for a secondary dwelling that is separate from the principal dwelling—the maximum building height is 6 metres and the maximum wall height is 3 metres,**
- (b) for a dwelling house or a dual occupancy—the maximum wall height is 7 metres,**
- (c) for multi dwelling housing and boarding houses:**
 - i) the maximum building height for a dwelling facing a road is 9 metres and the maximum wall height is 7 metres, and**
 - ii) the maximum building height for all other dwellings at the rear of the lot is 6 metres and the maximum wall height is 3 metres.**

...

The proposal seeks to vary Clause 4.3(2B)(a) of Bankstown Local Environmental Plan 2015. The non-compliant portion of the dwelling wall is measured at 4.19m at the highest point on the eastern elevation, which represents a variation of 1.19m or 39%. The other breach occurs on the western elevation where the non-compliant portion of the wall measures 3.4 metres at the highest point, which represents a variation of 400mm or 13%.

It is relevant to note that the non-compliant wall height of 4.19m on the eastern elevation and 3.4m on the western elevation is confined to the peak of the existing gable end wall and gable roof. See elevations below:



In response to the non-compliance, the applicant has prepared and submitted a Clause 4.6 submission for Council's consideration. An assessment of the Clause 4.6 submission is provided below.

Clause 4.6 – Exceptions to development standards

Clause 4.6 of the Bankstown Local Environmental Plan 2015 provides as follows;

- (1) The objectives of this clause are as follows:**
 - a. to provide an appropriate degree of flexibility in applying certain development standards to particular development,**
 - b. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**

- (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.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b. that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (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 subclause (3), and*
 - 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, and*
 - b. the concurrence of the Secretary has been obtained*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- a. whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - b. the public benefit of maintaining the development standard, and*
 - c. any other matters required to be taken into consideration by the Secretary before granting concurrence*

...

The aim of Clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to achieve better development outcomes. The applicant's Clause 4.6 submission is attached to this report at 'Attachment D'.

It is considered that enforcing compliance with Clause 4.3(2B)(a) of the Bankstown Local Environmental Plan 2015 which relates to maximum wall height of secondary dwellings would be unreasonable for the following reasons:

- No openings are provided along the non-compliant eastern elevation which would contribute to a loss of privacy.
- Openings along the non-compliant western elevation are confined to a bathroom window resulting in no loss of amenity for the adjoining residents to the west.

- Solar access is maintained to the rear yards of No. 35 Ian Crescent and the rear yard of dual occupancy development to the east for considerable periods of the day.
- There is no change proposed to the predominate built form that currently exists.
- The change of use does not introduce or contribute to any additional amenity impact, specifically with respect to the wall height breach.

It is recommended that the applicant's request to vary the development standard be supported. In this regard, compliance with the standard is considered to be unnecessary in this instance and there is sufficient environmental planning grounds to support the proposed variation to the maximum wall height development standard. The assessment of the proposed development and the applicant's Clause 4.6 submission provided adequate basis for the approval of the application which is also considered to be in the public interest because it is consistent with the objectives of the standard being varied and the objectives of the R2 residential Zone.

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

There are no applicable draft environmental planning instruments.

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

The following table provides a summary of the development application against the primary numerical controls contained within Part B1 of BDCP 2015.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
Clause 3.1	The subdivision of secondary dwellings is prohibited.	Complies, no subdivision proposed.
Clause 3.2	Council must not consent to development for the purpose of secondary dwellings unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under an environmental planning instrument; and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under an environmental planning instrument, that greater floor area.	The total floor area of the principal dwelling and secondary dwelling complies with the provisions of this clause. The following calculations are provided: Total Floor Area = 279m ² (558m ² /2m ²) Gross Floor Area = 161.297m ² (104.147m ² + 41.28m ²) The total floor area of the secondary dwelling is 57.15m ²
Clause 3.4	The storey limit for detached secondary dwellings is single storey and the maximum wall height is 3 metres.	The secondary dwelling is single storey. As mentioned previously, the wall height exceeds the maximum height of 3m See Justification below

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
Clause 3.10	For the portion of the building wall that has a wall height less than or equal to 7 metres, the minimum setback to the side and rear boundaries of the allotment is 0.9 metre.	The existing garage has a minimum setback to the eastern side boundary of 0.33m and 0.26m to the rear boundary. See Justification below
Clause 3.12	Secondary dwellings must not result in the principal dwelling on the allotment having less than the required landscaped area and private open space.	A dwelling house is to provide a minimum 80m ² of POS behind the front building line and with a minimum width of 5 metres throughout. The proposal maintains compliance with this clause with 95m ² of POS provided.
Clause 3.13	At least one living area must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement this access to sunlight provided these building elements are not the primary source of sunlight to the living areas.	The proposal depicts a north facing living area (kitchen) which will receive greater than 3 hours of direct sunlight.
Clause 3.16	Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must: (a) offset the windows between dwellings to minimise overlooking; or (b) provide the window with a minimum sill height of 1.5 metres above floor level; or (c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or (d) use another form of screening to the satisfaction of Council.	It is considered that compliance is demonstrated with this Clause as no windows have been proposed along the eastern elevation and the windows facing south face inward to the site, the west facing windows overlook the properties private open space and the north facing windows overlook the Sydney Water drainage reserve.
Clause 3.17	Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where: (a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or (b) the window has a minimum sill height of 1.5 metres above floor level; or (c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or	No windows overlook the private open space of an existing adjoining dwelling.

STANDARD	BDCP 2015 PART B1	
	REQUIRED	COMPLIANCE
	(d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling.	
Clause 3.23	The maximum roof pitch for detached secondary dwellings is 25 degrees. An attic or basement is not permitted as part of the dwelling.	The roof pitch is 24 degrees. No attics or basements have been proposed.
Clause 3.26	Secondary dwellings must not result in the principal dwelling on the allotment having less than the required car parking spaces.	The site contains a carport which does not result in any non-compliance with car parking requirements.

As demonstrated in the table above, an assessment of the development application has revealed that the proposal fails to comply with Clause 3.4 and 3.10 of Part B1 of BDCP 2015. Below are reasons as to why the proposed wall height and proposed setback to the side and rear boundary should be supported.

Wall Height

Clause 3.4 of Part B1 of the BDCP 2015 requires the secondary dwelling to have a maximum wall height of 3m. The wall height of the proposed secondary dwelling measures at 4.19m, causing a non-compliance of 1.19m above the maximum allowable wall height. The non-compliance arises due to the nature of the roof form / gable end wall found on the east elevation. As indicated earlier in the report, a departure also occurs along the dwelling's western elevation. Again, the departure is as a result of the existing gable roof form.

The justification to support the variation of Clause 3.4 of Part B1 of the Bankstown Development Control Plan 2015 is consistent with the justification above for Clause 4.3 of the Bankstown Local Environmental Plan. It is considered that there are sufficient environmental planning grounds to support the proposed variation to the wall height of the outbuilding and that the proposed variation would not contravene objectives of the R2 residential zone.

Side and rear setbacks

Clause 3.10 of Part B1 of BDCP 2015 requires the secondary dwelling provide a minimum side and rear boundary setback of 0.9 metres for the portion of the building with a wall height less than or equal to 7 metres. Clause 3.10 provides as follows;

3.10 *For the portion of the building wall that has a wall height less than or equal to 7 metres, the minimum setback to the side and rear boundaries of the allotment is 0.9 metre.*

The existing outbuilding that is to be converted into a secondary dwelling has an existing eastern boundary (side) setback which ranges from 0.33m to 0.43m and an existing northern boundary (rear) setback which ranges from 0.26m to 1.33m. No further encroachment toward the boundary is proposed.

No loss of amenity will occur by way of retaining these setbacks given that there are no openings proposed along the eastern elevation and the northern elevation is adjoined by the Sydney Water Pipeline.

Council's Building Surveyor has identified that certain works will be required to bring the building into conformity with the Building Code of Australia. Conditions requiring these works are included in Attachment 'B'.

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

There are no planning agreements that apply to this application.

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

The proposal does not raise any issues with respect to the Regulations.

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

The likely impacts of the proposal have been managed through the design of the development which is compliant with Council's planning controls, with the exception of the wall height as contained within BLEP 2015 and BDCP 2015 and the setback to the side and rear boundary control as contained within the BDCP 2015. These non-compliances have been addressed within this report, and it is concluded that there would be no adverse impacts on the immediate or surrounding locality as a result.

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

The proposal is a permissible form of development on the subject site and represents a built form that is compatible with the existing and desired future character of the locality. Whilst the development proposes a variation to the wall height and setback to the side and rear boundary, the built form and scale of the outbuilding is retained as originally constructed. The proposal is a development that can be expected in a Low Density Residential zone and capable of accommodating the proposed development. Accordingly, the site is considered to be suitable for the proposed development.

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

No submissions were received for or against the development.

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

With regard to the relevant planning considerations, it is considered that the proposed development would not contravene the public interest.

CONCLUSION

The development application has been assessed in accordance with the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

The proposed development complies with all applicable planning controls, with the exception of wall height in accordance with the BLEP 2015 and BDCP 2015 and the setback to the side and rear boundary in accordance with the BDCP 2015. It is recommended that the variations be supported in light of the justifications presented in this report.

RECOMMENDATION

It is recommended that:

1. The Clause 4.6 submission in relation to wall height under Clause 4.3(2B)(a) of BLEP 2015 be supported; and
2. Development Application No. DA-437/2018 be approved subject to the conditions included at Attachment B.

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No.DA-856/2018, submitted by Boris Grgurevic, accompanied by Sheet No. 1, 2 and 3, all issue 2, prepared by Boris Grgurevic & Associates P/L, dated 13-11-18 and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

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

Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:

- 3) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 4) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000.
- 5) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with the Bankstown Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 6) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

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

- 7) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 8) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 9) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 10) 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.
- 11) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, evidence of lodgement of an application for a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.

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

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

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

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

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

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

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

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

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

- 12) Stormwater runoff from all areas proposed for development shall be collected and connected to the existing stormwater system within the site, subject to the existing system being evaluated by a qualified professional Civil Engineer and found to be structurally adequate and to have the required hydraulic capacity, as required in

Council's Development Engineering Standards. The existing system shall be upgraded or replaced as necessary to comply with the requirements above.

The plan for the proposed drainage system together with the hydraulic evaluations shall be submitted to the PCA for approval with the application for the Construction Certificate.

- 13) The existing building must be brought into conformity with Performance Requirements P2.2.2, P2.2.3 and P2.3.1 of the Building Code of Australia (BCA), to protect persons using the building, and to restrict the spread of fire from the building to other buildings nearby. Details indicating compliance with the Performance Requirements of the BCA must be provided to the certifying authority prior to the issue of a construction certificate.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION WORKS COMMENCING

- 14) The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building work has been issued by the council or an accredited certifier, and
 - b. the person having benefit of the development consent has:
 - i. appointed a principal certifying authority for the building / subdivision work, and
 - ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 15) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained

in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.

- 16) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 17) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 18) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 19) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

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

- 20) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 21) 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 the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 22) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority 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 certifying is required to be appointed:
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
 - b. in the case of work to be 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 certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

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

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

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 24) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 25) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 26) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 27) The swimming pool is to be enclosed by a child resistant barrier comprising fences and gates designed, constructed, installed and maintained in accordance with Australian Standard 1926-2012 - Swimming Pool Safety Part 1: Safety barriers for swimming pools.

A notice containing the words "Young Children Should be Supervised When Using this Swimming Pool" and "Pool Gates Must Be Kept Closed At All Times" and "Keep Articles, Objects and Structures At Least 900 Millimetres Clear Of The Pool Fence At All Times" together with a simple flow sequence containing details of resuscitation techniques must be displayed in a prominent position in the immediate vicinity of the pool.

Overflow and discharge pipes from the pool and filtration unit must be connected to the sewer.

- 28) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA). Should the developer encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.
- 29) The existing internal stormwater drainage system, and the stormwater drainage system draining the site shall be cleaned out, tested for leaks and repaired as necessary. A licensed plumber is to certify that the work has been carried out.
- 30) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 31) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 32) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 33) 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. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 34) The premises must be readily identified from the street with the allocated house numbers. Numbering of the development without Council's written approval is not permitted. An official "house numbering" letter will be sent to the applicant indicating the proposed house numbers of the new development. Note: The house numbers of the development are subject to change depending of the type on subdivision that may occur at a later stage.
- 35) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.

SCHEDULE A: ADVICE TO APPLICANTS

Inspection of building works shall be undertaken as determined by the PCA. If Bankstown Council has been nominated as the PCA then details of inspection type and number required will be determined prior to the issue of a construction certificate.

Where a combined development consent is issued for demolition of buildings and construction of new work, a Construction Certificate must be obtained for the work, including demolition.

Also, before you dig, call “Dial before you Dig” on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance to nearest cross street) for underground utility services information for any excavation areas.

-END-