



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

4 December 2023 - 6.00 PM

**Location: Council Chambers
Cnr Chapel Road and The Mall
Bankstown**

Welcome to the City of Canterbury Bankstown

We're committed to creating a liveable and loveable City for all our residents. Here's how we're doing it:



Great Cities

We believe in creating vibrant, dynamic, and diverse communities that offer opportunities for people to connect, pursue their passions, and contribute to the world around them.



Naturally Green

We protect and prioritise nature in and around our city to enhance environmental sustainability and improve the quality of life for our residents.



Design Excellence

We encourage buildings, spaces, and objects that are both beautiful and practical, enhancing the beauty, accessibility, and safety of our built environment.



People First

We prioritise the needs, preferences, and aspirations of our community in all aspects of urban planning and design, creating supportive and enriching places people love.



Community

We engage with our community to ensure their needs and aspirations are reflected in the outcome, creating sustainable, resilient, vibrant, diverse, and inclusive places.



Sustainability

We seek designs that reduce negative impacts on the environment while also promoting social and economic well-being.



Net-Zero

We encourage our community to design buildings and places that produce as much renewable energy as they consume, reducing greenhouse gas emissions, lowering energy bills, and increasing resilience to environmental shocks and stresses.

Join us in creating a City that's liveable, loveable, and sustainable for all!

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BUDJAR / CANTERBURY WARD

- | | | |
|---|--|---|
| 1 | 15 Main Street, Earlwood | |
| | Torrens title subdivision into two separate lots | 3 |

BUNYA / REVESBY WARD

- | | | |
|---|---|----|
| 2 | 270 Horsley Road and 286 Horsley Road, Milperra | |
| | Remediation of contaminated soils (Category 1), site preparation works, demolition of all existing structures on site, clearing of vegetation, site grading and construction of retaining walls to achieve bulk earthworks levels. The application is designated development in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2021. | 25 |

DARANI / BANKSTOWN WARD

- | | | |
|---|--|----|
| 3 | Planning Proposal at 81-95 Boronia Road, Greenacre (RZ-1/2019) | 89 |
|---|--|----|

Canterbury Bankstown Local Planning Panel - 04 December 2023

| | |
|--------------------------|---|
| ITEM 1 | 15 Main Street, Earlwood |
| | Torrens title subdivision into two separate lots |
| FILE | DA-744/2023 – Budjar / Canterbury |
| ZONING | R2 Low Density Residential |
| DATE OF LODGEMENT | 22 June 2023 |
| APPLICANT | Milestone (Aust) Pty Limited |
| OWNERS | Milena Sonya Peddie |
| ESTIMATED VALUE | \$0 |
| AUTHOR | Planning |

REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel as it seeks consent for a development which proposes to vary a development standard by more than 30%. The proposed departure concerns the minimum lot size in Clause 4.1 Minimum Lot Size of Canterbury Local Environmental Plan 2012 Development Application No. DA-744/2023 proposes the Torrens title subdivision of 15 Main Street, Earlwood which is an existing “L” shaped allotment, into a battle-axe arrangement. This subdivision results in the front lot (Lot 2) representing a variation of 33% (or 154.4sqm) to the minimum lot size control which is 460sqm.

No demolition or building works are proposed in this development application. The applicant has stated any building works are to be undertaken through the mechanisms of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, or “the Codes SEPP”. However, for the subdivision to occur, a condition must be imposed on any Development Consent that requires development consent for the demolition of the existing dwelling and ancillary structures be obtained prior to the issue of a subdivision certificate.

DA-744/2023 has been assessed under the matters for consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979, which include the relevant provisions of the following:

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- Canterbury Local Environmental Plan 2012,
- Canterbury Development Control Plan 2012, and
- Canterbury Bankstown Development Contributions Plan 2023 (Contributions Plan 2023).

It is noted that the Canterbury Bankstown Local Environmental Plan (CBLEP) had not commenced at the time of lodgement. In accordance with Section 1.8 of the CBLEP, saving provisions apply as this development application was made prior to the commencement of the plan. An assessment is undertaken against the Draft CBLEP as it was publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020.

Additionally, at its Ordinary Meeting of 25 May 2021, Council resolved that the Canterbury-Bankstown Development Control Plan 2023 and supporting guides will apply to development applications lodged on or after 23 June 2023. For development applications lodged prior to 23 June 2023, the former Council planning controls will continue to apply.

The application was notified for a period of 14 days. One objection was received during this period, which raises concerns relating to lot size, privacy, property values and parking which are addressed as part of the assessment as recorded in this report.

POLICY IMPACT

The matter being reported has no policy impacts.

FINANCIAL IMPACT

The 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

DA-744/2023 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 15 Main Street, Earlwood. The site is an irregular “L” shaped allotment that is zoned R2 Low Density Residential under the Canterbury Local Environmental Plan 2012

The site contains a single storey dwelling house and detached garage. The surrounding development consists of low density dwelling houses of varying heights and scales.



Figure 1: Aerial of subject site in blue. **Source:** NearMaps 2023



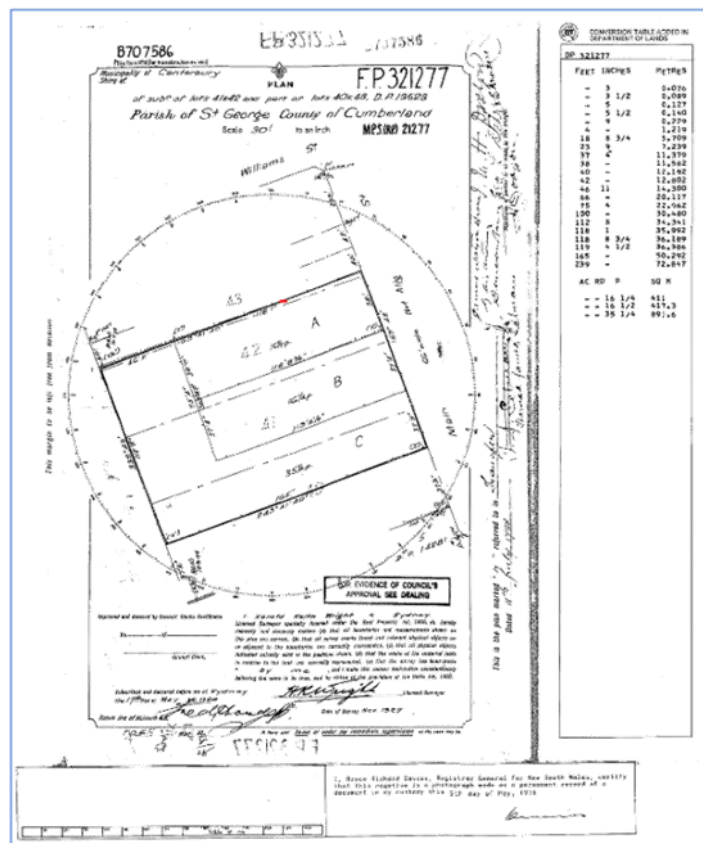
Figure 2: Front of subject site. **Source:** From site inspection on 18 July 2023.



Figure 3: Rear of subject site. Source: From site inspection on 18 July 2023.

HISTORIC SUBDIVISION

The subject site has a unique subdivision pattern in the locality dating from 11 July 1928. The existing subdivision is a result of the site historically containing a tennis court at the rear of the dwelling.



BACKGROUND

On 7 September 2021, Development Application DA-232/2021 for the proposed Torrens title subdivision into two separate lots was refused under delegated authority. This application was refused largely due to inconsistencies between the proposed subdivision plans and accompanying Clause 4.6 variation request. That proposal also included the retention of the front dwelling.

The Clause 4.6 variation request was not well founded and failed to demonstrate that compliance with the development standard was unreasonable or unnecessary in the circumstances of the case.

PROPOSED DEVELOPMENT

Development Application No. DA-744/2023 proposes the Torrens title subdivision of the existing 'L' shaped allotment of Lot C on Deposited Plan 321277 into two separate lots. The subdivision will be of a battle-axe arrangement, with the rear lot retaining access to Main Street with a new 3m wide access handle. The proposed two lots contain the following particulars:

Lot 1 (Rear Lot)

- Battle-axe in shape;

- Measurements of 13.71m/14.3m in width and 34.34m in length resulting in a lot size of 481sqm (excluding access handle).
- Contains a 3m in width and 36.385m in length access handle along the western boundary of the existing site which is rectangular in shape.

Lot 2 (Front Lot)

- Rectangular in shape;
- Measurements of 8.38m in width and 36.385m in length resulting in a lot size of **305.5sqm (154.5sqm or 33% variation from 460sqm Minimum Lot Size).**

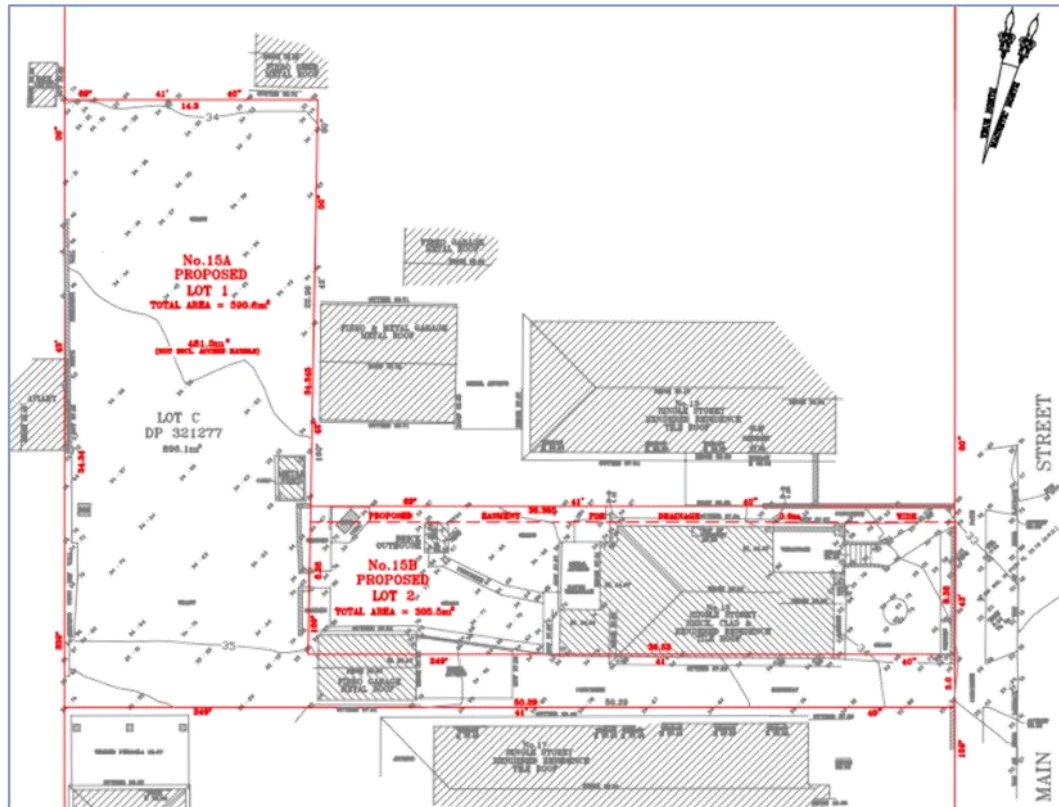


Figure 5: Proposed Subdivision Plan

Statutory Considerations

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

- State Environmental Planning Policy (Resilience and Hazards) 2021
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Bankstown Development Contributions Plan 2023 (Contributions Plan 2023)

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 (Resilience and Hazards) 2021

This State Environmental Planning Policy aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. The SEPP states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

A review of the history of the site shows that the subject site has generally only been used for residential purposes. Given that the site has been used for only residential purposes, the site is consistent with State Environmental Planning Policy (Resilience and Hazards) 2021. The applicant has stated that the [existing] subdivision of the land is a result of a former tennis court that was previously located at the rear of the property.

Canterbury Local Environmental Plan 2012

The following clauses of the *Canterbury Local Environmental Plan 2012* 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 2.6 – Subdivision – Consent Requirements
- Clause 3.2 – Complying development
- Clause 4.1 – Minimum Subdivision Lot Size
- Clause 4.6 – Exceptions to development standards
- Clause 6.6 – Essential services

An assessment of the Development Application revealed that the proposal complies with the matters raised in the above clauses, except for Clause 4.1. 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 CLEP 2012, which are as follows:

"1.2 Aims of the Plan

(a) to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,

- (b) to promote a variety of housing types to meet population demand,
- (c) to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community,
- (d) to create vibrant town centres by focusing employment and residential uses around existing centres and public transport nodes,
- (h) to protect the natural environment for future generations and implement ecological sustainability in the planning and development process,
- (i) to protect and promote the environmental and cultural heritage values of Canterbury."

The proposal complies with the relevant aims of this Plan with particular regard to the provision of housing that is suitable in the R2 Zone, specifically smaller detached dwellings.

Clause 2.3 Zone Objectives and Land Use Table

The site is located in the R2 Low Density Residential zone, in which the proposal is consistent with the relevant objectives, being:

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

The proposed subdivision of the existing lot into two lots will provide an opportunity for future lot owners to increase the housing supply of the locality and therefore cater for the housing needs of the community within a low density residential environment. It is noted the proposal does not seek to develop the two new lots but instead to allow future owners to develop their own lot under the provisions of the Codes SEPP.

Clause 2.7 Demolition requires consent

This clause requires development consent to be obtained for the demolition of a building. The subject application does not propose demolition. It is noted that demolition of all existing structures of the site will be required to allow for subdivision, therefore a condition of consent has been imposed requiring development consent to be sought for demolition prior to the lodgement of a subdivision certificate.

Clause 4.1 Minimum Lot Size

An assessment of the Development Application revealed that the proposal fails to comply with the provisions of Canterbury Local Environmental Plan 2012 relating to Minimum Lot Size. The minimum lot size that applies to this Lot is 460sqm. The proposed battle-axe subdivision results in a compliant lot of 481sqm to the rear but a non-compliant lot of 305.5sqm at the front of the site (where the existing dwelling

house now stands). The variation proposed is discussed in relation to Clause 4.6 to CLEP 2012 below.

Clause 4.6 – Exceptions to development standards

The applicant has provided a written request to vary the minimum lot size under the provisions of Clause 4.6 – Exceptions to development standards in Canterbury LEP 2012. The proposed battle-axe subdivision results in Lot 2, which fronts Main Street, varying the minimum lot size control of 460sqm by 154.5sqm or 33%, resulting in a lot size of 305.5sqm (refer to Figure 6).

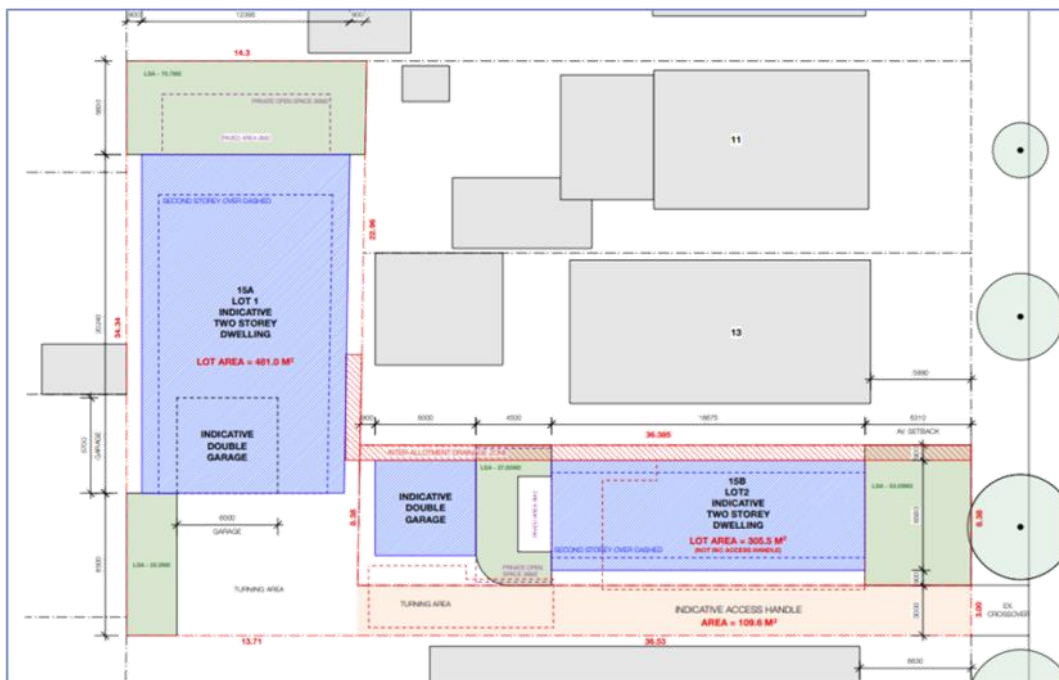


Figure 6 – Proposed Lot Sizes and Indicative Building Footprints.

In consideration of the Clause 4.6 variation request, Clause 4.6(3) of the CLEP 2012 requires the following:

“4.6 Exceptions to development standards

(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.”

The justifications from the applicant's written Clause 4.6 variation request are summarised as follows:

Orderly and Economic Use and Development of Land

- The proposed subdivision, including the variation with respect to the minimum subdivision lot size development standard as it relates to the proposed Lot 2, will facilitate the development of a currently sterilised portion of the site, resulting in the orderly and economic development of land in accordance with Section 1.3 Objects of the EP&A Act 1979.
- The proposed variation to the minimum subdivision lot size in respect of Lot 2 will permit two allotments that are capable of complying with the development standards of Part 3 Housing Code of the Codes SEPP demonstrating that the applicable minimum lot size of LEP 2012 acts as a barrier to the orderly and economic development of the site.

Lack of Impact

- It has been demonstrated through the provision of the Indicative Building Footprint and Envelope Plans, as well as Indicative Shadow Diagrams prepared by Beresford Architecture, dated August 2022 that each subdivided lot, including both Lots 1 and 2, can be developed in the future with dwellings that are able to achieve compliance with the relevant development standards stipulated within LEP 2012 and DCP 2012 including FSR, site coverage, setbacks, private open space as well as satisfactory residential amenity outcomes in terms of solar access, visual privacy and views (with the exception of Clause 4.1A(4), which is proposed to be deleted under the Draft LEP 2020), and C1 of Part C1.2.1 of DCP 2012 which the existing allotment does not comply with.
- The extent of the proposed variation to Lot 2 will not be discernible from the public domain which would continue to present as a single detached dwelling house from Main Street with a side concrete driveway along the southern boundary, consistent with the streetscape. Any future new dwelling house will sit behind the new dwelling on Lot 2 with limited visibility from the public domain.

Anticipation of development on similar sized lots within the LEP 2012

- Development Standards such as Clause 4.4(2A) of LEP 2012 envision the development of smaller allotments, with FSR concessions being granted to allotments ranging from less than 200m² up to 600m². This highlights that LEP 2012 aims for the delivery of residential accommodation on allotments not dissimilar to Lot 2 and that support of the variation would not result in a development that is uncommon or unanticipated for the locality.

Strategic public benefit

- The proposed development, including Lot 2 and its non-compliance with the applicable minimum lot size development standard will provide a public benefit and aid in the delivery of the additional 39,380 – 58,450 dwellings estimated to be required by 2036 in the Canterbury Bankstown LGA by the Canterbury Bankstown Housing Strategy, dated June 2020.

- *Furthermore, the proposed development, including Lot 2, permits additional occupancy of a site within an urban infill environment within Earlwood which has good access to jobs, community facilities and recreational opportunities.*

Unique Site

- *The proposed variation to Clause 4.1 of LEP 2012 in respect of Lot 2 is considered to have sufficient environmental planning grounds to justify a variation being granted by the consent authority, given the special circumstances of the site, notably the 'L' shaped arrangement which will not set a precedent that can be replicated across the LGA given the historic subdivision anomaly.*

Clause 4.6(3) requires the applicant's request to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the Development Standard. The applicant's request to vary the minimum lot size development standard demonstrates that the proposal meets the objectives of Clause 4.1 for minimum lot size and meets the objectives for development in Zone R2, as the proposal facilitates the development of smaller scale detached dwellings which is congruent with these objectives.

It is recognised that although the proposed Lot 2 (front lot) will result in a dwelling which is narrower than those dominating the current streetscape, this represents a lesser impact and better outcome than a dwelling house which could be developed to its maximum FSR prior to any subdivision occurring. The outcome of this pathway would result in an excessively bulky building which would be less consistent with the streetscape than a narrower one. Further, the applicant has demonstrated environmental planning grounds for the proposed subdivision as the site is a unique 'L' shape and is an anomaly in the locality as it is the only battleaxe lot and that pattern will be maintained. The local subdivision pattern is not such that a new battleaxe lot could be readily achieved.

The combination of these environmental planning grounds and compliance with the objectives within the Clause 4.6 variation request adequately demonstrates that compliance with the development standard is both unreasonable and unnecessary in this particular case.

The applicants written request establishes environmental planning grounds that, on balance, find that compliance with the LEPs minimum lot site is unreasonable. The site itself is unique in the locality (due to its shape) and could not be recreated if proposed now. The uniqueness of the site requires an unusual response to any future development of the site. In light of the unique shape and its ability to achieve orderly and economic development under the Codes SEPP, renders strict compliance with the LEP as unreasonable.

Council is satisfied that clause 4.6(3) is met.

Having considered the applicants written justification under clause 4.6(3), the consent authority is now obliged to consider Clause 4.6(4) requiring the following:

“(a) the consent authority is satisfied that—

- (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (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 Planning Secretary has been obtained.”

In order to support a departure from the LEP, Council must be satisfied that the applicant’s written request is consistent with clause 4.6(3), which is outlined above, but also that Council is satisfied that proposal is in the public interest by way of it being compliant with the LEPs zone and development standard objectives.

Council is satisfied that Clause 4.6(4)(a)(i) is met.

In order to be satisfied that Clause 4.6(4)(a)(ii) is met, the LEPs relevant objectives require consideration.

The objectives of Clause 4.1 to CLEP 2012 are:

“a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,

(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,

(c) to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and retain special features such as trees and views”

The applicant’s request explains that the development meets the objectives of Clause 4.3 as follows:

Objective (a)

- *This objective is achieved... because to the casual observer, the existing and predominant subdivision pattern of the area will be unaltered and deemed as being essentially the same when observed and appreciated from the street and will not be discernible from public vantage points. That is, although the existing site will be subdivided into two lots, the new rear Lot 1 will continue to not be appreciated from the street and the new front Lot 2 (where the non-compliance occurs) will present to the streetscape in the exact same way as it presently does (i.e. as a single lot with an unfettered width and a concrete driveway running along its southern boundary). Therefore, the non-compliant lot size relating to Lot 2 will be imperceivable to the casual observer from the street and the proposed*

subdivision will continue to reflect and reinforce the predominant subdivision pattern of the area.

- *The predominant subdivision pattern of the area as appreciated from an aerial analysis is again fairly consistent with east/west orientated allotments along the eastern side of Main Street with allotment sizes generally ranging from 450m² to 460m², along the western side of Main Street with allotment sizes generally ranging from 410m² to 590m² and along the eastern side of Malley Avenue with allotment sizes generally ranging from 560m² to 585m². However, there is an obvious outlier in respect of this predominant subdivision pattern which is the subject site in its existing 'L' shape pattern. The existing subdivision of the site and its 'L' shape is a historical anomaly and is the result of a former tennis court being located at the rear of the property, which is at present vacant, sterilised and undeveloped... Since the existing 'L' shape allotment does not, at present, reflect the predominant pattern of subdivision in the area from an aerial analysis reference point, it would be unreasonable and unnecessary to expect that the proposed subdivision of the site would achieve the extent of 'sameness' with that predominant (aerial) pattern. The horse has bolted in that respect.*

Objective (b)

- *The proposed subdivision will create two lots and Milestone has carried out a compliance assessment which demonstrates that any future development for a dwelling house on each of these lots are able to achieve compliance with the relevant built form standards under Part 3 of the Codes SEPP. Relevantly, accompanying Indicative Architectural Plans prepared by Berresford Architecture, dated August 2022 demonstrate that the future potential dwelling on the resulting Lot 2, notwithstanding its non-compliant lot size, would be able to preserve acceptable residential amenity of neighbouring properties in terms of acoustic and visual privacy, direct solar access and visual bulk impacts. For example, the concept dwelling on Lot 2 is able to achieve the minimum required landscape area (greater than 15% of the site area for lots up to 449m² and minimum Private Open Space of 50m². The future dwelling on Lot 2 can also be sited to achieve the minimum setback requirements. Furthermore, the concept dwelling for Lot 2 is able to achieve compliance with Council's Solar Access requirement of a minimum of three hours direct solar access for the potential dwellings and existing neighbouring developments Nos. 11, 13 and 17 Main Street and Nos 37, 39, 41 and 43 Malley Avenue. Therefore, the proposed subdivision is able to achieve objective (b), notwithstanding the non-compliance caused by the proposed Torrens Title subdivision (i.e. Lot 2) because it has been demonstrated that any future development will be acceptable in terms of minimising environmental impacts on residential amenity for both the future occupants of Lot 2 as well as the existing adjoining neighbouring properties*

Objective (c)

- *The site is not located in a Heritage Conservation Area under Schedule 5 of LEP 2012. Currently, the 'L' shaped portion of the site cannot be seen when viewed from Main Street or Malley Avenue. The proposed*

subdivision, including the non-compliance with the applicable minimum lot size development standard caused by the proposed Torrens Title subdivision (i.e. Lot 2), does not result in any adverse impacts to the natural or cultural features, heritage items, heritage conservation area or special features including street trees along Main Street.

Council Comment:

Council's assessment finds that objective (a) is met as the existing subdivision of the subject site reflects a historical anomaly of being an "L" shaped site, in which currently does not reflect the prevailing predominant subdivision pattern. This will remain unchanged with the proposed battle-axe subdivision and the "L" nature of the site will continue to be largely unnoticeable from the street.

Additionally, Council's assessment finds that objective (b) is met as the applicant has provided indicative building envelopes that demonstrate the minimisation of any impacts on the amenity of neighbouring properties, such as overshadowing, through the potential future development of both proposed lots under the Codes SEPP.

Objective (c) is considered by Council to be satisfied as no natural or cultural features, heritage items, heritage conservation area or special features including street trees are to be adversely impacted by the proposed subdivision.

The objectives for development in R2 Low Density Residential Zone are:

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

The applicant's request explains that the development meets the objectives for development in Zone R2 as follows:

- *The proposed subdivision provides for future housing needs of the community within an established low density residential environment*
- *Two dwellings are capable of being accommodated on the resultant allotments of the proposed subdivision, providing additional low density housing within Earlwood.*
- *The proposal will allow the development of the rear sterilised land with an appropriate residential land use to service and meet the needs of its future residents.*
- *As stated above, the proposed development will aid in the delivery of the additional 39,380 – 58,450 dwellings estimated to be required by 2036 in the Canterbury Bankstown LGA by the Canterbury Bankstown Housing Strategy, dated June 2020.*

Council Comment:

Council's assessment finds that the zone objectives are met as the proposed subdivision facilitates the development of smaller scale detached dwellings, which is congruent with the built environment envisaged by the R2 zone, thereby providing for the housing needs of the community within a low density residential environment.

Council enjoys the assumed concurrence of the Planning Secretary, thereby satisfying clause 4.6(4)(b).

A variation to the minimum lot size development standard is considered reasonable in these specific circumstances. The applicant has presented sufficient environmental planning grounds for the variation and has demonstrated the development meets the relevant objectives of the minimum lot size development standard and the objectives for development in the R2 Low Density Residential Zone.

The variation is a consequence of the existing "L" shaped configuration of the site, which in order to develop the land to the rear, will result in an access handle impeding on the size of the front lot. The impacts of this will largely be undiscernible from the street and the resultant size of the front lot (305.5sqm) is of a size that is already envisaged by CLEP 2012 as FSR concessions are granted to allotments ranging from less than 200m² up to 600m².

Furthermore, indicative building envelopes have been submitted to Council demonstrating functional built forms that are able to satisfy key development controls such as solar access, thereby providing confidence that a level of amenity in keeping with that envisaged by the R2 Low Density Residential zone is able to be achieved by future development to both proposed lots.

Based on these reasons and the justification provided in the applicant's Clause 4.6 variation request, it is considered that the proposed non-compliance is worthy of support and represents an appropriate degree of flexibility specific to this case.

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

Canterbury Development Control Plan 2012

Below is an assessment of the development against the relevant controls contained in the Canterbury Development Control Plan 2012 (CDCP).

DCP Part C – Residential Accommodation

| Standard | Requirement | Proposal | Compliance |
|-----------------|---|---------------------------|--|
| C1.2.1 - C1 | The minimum primary street frontage width for dwelling houses is 15m. | 8.38m frontage to Lot 2 | No – existing noncompliance. Existing lot has a frontage of 11.38m. The proposed subdivision results in a 3m wide access handle which results in a frontage of 8.38m to Lot 2. This is considered acceptable in the circumstances of the case and is a consequence of the unique site constraints. |
| C1.2.1 – C2 | Lots must be generally rectangular | Rectangular lots proposed | Yes |

| Standard | Requirement | Proposal | Compliance |
|-------------|---|--|------------|
| C1.2.1 – C4 | The minimum width of access corridors serving internal or battle-axe lots is: (a) 3m when serving single lot; (b) 4m when serving two lots; and (c) 5m when serving more than two lots. | 3m access handle - serving single lot. | Yes |

Indicative Building Envelopes

The subject development application does not propose any building works. The applicant has provided Council with plans indicating the envisaged built forms that are able to be constructed through the mechanisms of the Codes SEPP. Council has undertaken an assessment of these plans and is satisfied that reasonable amenity, in line with that expected of an R2 Low Density Residential Zone, is anticipated to be maintained to the subject and neighbouring properties following the future construction of dwellings on each proposed lot.

| Internal Referrals | Comments |
|-------------------------|---|
| Development Engineering | <p>Council's Development Engineer have not supported the application in its current form as the indicative building envelopes have not demonstrated that two (2) car spaces per dwelling are able to be provided as per the minimum car parking rates in Part B1 CDCP 2012. The indicative plans also demonstrate that a right-of-way will likely be required over Lot 1 for a car space to be provided to Lot 2. This is to be investigated by the beneficiary of this consent.</p> <p><u>Planning Response:</u></p> <p>It is noted that no building works are proposed in this application, nor are car parking spaces sought, and the applicant states the intention to develop both proposed lots in the future through the mechanisms of the Codes SEPP in which have a minimum requirement of one (1) car space per dwelling. While the desire to maximise off street parking is encouraged, the proposal is clear that, pending subdivision approval, the two new lots will seek to be developed under the provisions of the Codes SEPP and it is on that basis the support for the proposal is given.</p> <p>The Codes SEPP envisions lots of the size proposed whereas Council's DCP does not. Further, the local subdivision pattern is such that a replication of the proposed subdivision pattern is highly unlikely to be replicated elsewhere. It is noted that the route of Development Application for the future development of the proposed lots will be unlikely to be successful.</p> <p>The unfavourable consideration of this application based upon the possible quantity of off street parking is unreasonable.</p> |

Canterbury-Bankstown Local infrastructure plan 2022 2023 (Contributions Plan 2022)

The Canterbury-Bankstown Local infrastructure plan 2022 applies to the site and requires a contribution of \$20,000 for the creation of one additional lot. This is included as a condition of consent.

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 consistent with the provisions of the Environmental Planning and Assessment Regulation 2021.

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

The proposed development is consistent with the relevant planning provisions applying to the site. The variation to the minimum lot size control is an appropriate degree of flexibility to allow for the development of a unique site in which the impacts are in keeping with those expected of an R2 Low Density Residential Zone.

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/notified for a period of 14 days. One objection was received during this period, which raises concerns relating to lot size, privacy, property values and parking.

Objection: Concern regarding lot size.

Comment: The "L" shaped site is proposed to be subdivided into two smaller lots. While this is not what Council envisions in its Local Environment Plan, the subdivision does have merit because the two new lots can be developed under the NSW Governments Complying Development policy which allows for the development of small lots with reasonable impact on their neighbours.

Objection: The existing frontage of 15 Main Street is below 15m requirement of DCP

Comment: The departure from the 15m site width is noted but the subdivided lots can be developed under the NSW Governments Complying Development policy (aka the Codes SEPP) meaning that strict compliance with Councils local controls is not mandatory.

Objection: Privacy concerns regarding the rear lot and impacts on prestige of the street.

Comment: No dwellings are proposed in the subject application. The prestige of the street is not a material planning consideration in the assessment of this application.

Objection: *The proposed dwelling on the back block runs perpendicular to the street, contrasts with the look of the street and will impact property values.*

Comment: No dwellings are proposed in the subject application. It is noted that any future dwelling will not create unacceptable impacts to the streetscape. Property values are not a material planning consideration in the assessment of this application.

Objection: *Parking impacts from the 3m wide driveway.*

Comment: No works are proposed in the subject application. However, it is noted that there will be no change required to the existing crossover currently serving 15 Main Street to serve the proposed rear lot, therefore there will be no impact to available street parking.

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 Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 which have been adopted in the public interest. As such, approval of the development would be consistent with the wider public interest.

CONCLUSION

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

This application seeks consent to develop an historically anomalous site, being a 95 year old "L" shaped lot with restricted development capacity due to its irregular shape and location. However, the proposal represents an opportunity for the two proposed lots to be successfully developed under the provision of the Codes SEPP which provides guidance on developing small lots.

The applicant has been clear that, pending approval for this proposal, that each new lot will be developed under the provisions of the Codes SEPP. Considering the unique site circumstances on balance the proposal is worthy of support worthy of support given the potential future development of the two proposed lots under the Codes SEPP is unlikely to introduce significant loss of amenity to neighbours or an unreasonable built form into the streetscape.

RECOMMENDATION

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

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of this Development Consent.
- 2) Development must be carried out in accordance with the following approved plans (stamped by Council) except where the conditions of this consent expressly require otherwise.

| Plan Number | Plan Name | Dated | Revision | Prepared By |
|-------------|------------------------------|----------|----------|--------------------------|
| 23415 | Plan of Proposed Subdivision | 29/05/23 | - | G.K. Wilson & Associates |

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

- 3) Development Contributions of \$20,000.00 must be paid for this development before the issue of any subdivision certificate. The contributions are levied under Canterbury Bankstown Local Infrastructure Contributions Plan 2022 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 facilities | \$12,668.00 |
| Access and Public Domain Facilities | \$3,569.00 |
| Community and Cultural Facilities | \$3,468.00 |
| Plan Management & Administration | \$295.00 |
| | \$20,000.00 |

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.

NOTE: Development contribution amounts are non-refundable if you do not proceed with your development.

CONDITIONS TO BE SATISFIED PRIOR TO THE RELEASE OF THE SUBDIVISION CERTIFICATE

- 4) Demolition of all structures located on the site is required prior to the release of the subdivision certificate. Separate approval is required before the demolition of any structure located on site, where not permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 5) An application and appropriate fees for the issue of a Subdivision Certificate shall be submitted to Council upon all works being completed.
- 6) The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
 - a) Digital plan of subdivision and Administration sheets prepared and signed by a qualified registered surveyor,
 - b) Copy of the relevant development consent, including all Section 96 Modifications if applicable,
 - c) Works as executed engineering plans, where required.
 - d) Evidence that all conditions of consent have been complied with,
 - e) A certificate of compliance (Section 73 Certificate) from Sydney Water if required,
 - f) A copy of a satisfactory Final Demolition Inspection Report and any Compliance certificate for demolition.
 - g) Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services.
 - h) Copy of the Work Permit Compliance Certificate, where required.
- 7) The developer shall create the following easements, where necessary over the relevant lots, on the plan of subdivision under provisions of the Conveyancing Act. A statement shall be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority whose consent is required to release, vary or modify the easements created.
 - a) Easements to drain water (for inter-allotment drainage).
 - b) Easement for services (for utilities).
 - c) Right of carriageway (for internal driveway, vehicle manoeuvring).
 - d) Easement for overhang (for eaves and gutters).
- 8) The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before release of the plan of subdivision.

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.

For further information regarding this notice please contact Council on 9707 9000.

-END-

ITEM 2

270 Horsley Road and 286 Horsley Road, Milperra

Remediation of contaminated soils (Category 1), site preparation works, demolition of all existing structures on site, clearing of vegetation, site grading and construction of retaining walls to achieve bulk earthworks levels. The application is designated development in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2021.

FILE

DA-715/2022 – Bunya / Revesby

ZONING

IN2 Light Industrial

DATE OF
LODGEMENT

13 September 2023

APPLICANT

ESR Australia Pty Ltd

OWNERS

Leda Milperra Pty Limited

ESTIMATED VALUE

\$10,802,000

AUTHOR

Planning

REPORT

In accordance with the Local Planning Panels Direction, the Canterbury-Bankstown Local Planning Panel is required to determine applications that are defined as Designated Development. The subject development triggers this referral criteria and as such, is reported to the Canterbury Bankstown Local Planning Panel for determination.

The subject Development Application is an application for the remediation of contaminated soils (Category 1), site preparation works, demolition of all existing

structures on site, clearing of vegetation, site grading and construction of retaining walls to achieve bulk earthworks levels. This proposal is being assessed concurrently with a State Significant Development (SSD-51147710) proposal for the construction and operation of a multi-storey warehouse or distribution centre (to be divided into 12 separate units), ancillary office space, on-site car parking, landscaping and consolidation of the two existing lots. The NSW Department of Planning is the consent authority for the SSD application.

DA-715/2022 seeks approval for the demolition, remediation works and retaining wall construction on the site as part of Phase 1 works.

The scope of these works comprises remediation of 150,000–240,000m³ of contaminated soils, as well as site preparation works, demolition of all existing structures on the site, the clearing of vegetation and site grading and construction of retaining walls to achieve bulk earthworks levels.

Specifically, the Phase 1 works comprise:

- Levelling of the site to bulk earthworks levels. This may also include excavation of some service trenches within the fill that are to be backfilled with imported clean fill for later service installation.
- Excavation of a soil vapour interception trench targeting sections of the site boundary.
- Installation of a capping layer (over a marker layer) and retaining walls which minimises exposure to asbestos-impacted fill and reduces infiltration of rainfall into the existing soil profile.

The proposed works are to be carried out under a Remediation Action Plan (RAP) to ensure that suitable remediation and management techniques are implemented to facilitate the future industrial warehouse development and logistics uses on the site, subject to separate future applications.

DA-715/2022 has been assessed against the *Protection of the Environment Operations Act 1997*, *Biodiversity Conservation Act 2016*, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, Canterbury Bankstown Local Environmental Plan 2023, Bankstown Local Environmental Plan 2015, and Bankstown Development Control Plan 2015.

The application was initially notified and advertised for a period of 28 days, from 30 November 2022, until 18 January 2023 (inclusive of the Christmas blackout period). No objections were received during this period.

The application was re-notified again during the assessment for a period of 14 days from 23 August 2023 until 5 September 2023 and one submission was received which raised concerns relating to vibration impacts and stormwater runoff.

The contents of the report address each of these concerns in detail and notwithstanding the matters raised, it is considered that the proposal is worthy of being supported.

POLICY IMPACT

The proposed development will not have any policy impacts

FINANCIAL IMPACT

The proposed development does not have any direct financial implications

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions



ATTACHMENT A - DA-715/2022 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 270 & 286 Horsley Road, Milperra and is legally described as Lot A in DP327986 and Lot 3 in DP734460. The site has a total area of approximately 7.71 hectares. The site is an irregular shaped allotment that is currently zoned IN2 Light Industrial. The site has an 84.23m frontage to Horsley Road and a 13.72m frontage to Beaconsfield Road.

The site is occupied by multiple buildings comprising a mix of light industrial premises and associated hardstand parking and vehicle access. The site has been used historically (circa 1960s) for various industrial activities, some of which included manufacturing of refrigeration equipment, machinery degreasing, coating and painting.



Figure 1: Aerial of subject site in yellow. **Source:** NearMaps 2023

The site has a high point on the western side of the site, fronting Horsley Road, of RL 20.98 and generally falls to the east of the site by 5.29m (RL15.69). The majority of the site is relatively flat with levels spanning between approximately 16-18m AHD. The western end of the site grades up to Horsley Road at approximately 19-21m AHD.

Vegetation and landscaping on the site is limited to the Horsley Road frontage, on the western boundary of the site and in the south-western and north-eastern corners

BANKSTOWN CUSTOMER SERVICE CENTRE
Upper Ground Floor, Civic Tower, 66-72 Rickard Road,
Bankstown NSW 2200, PO Box 8, Bankstown NSW 1885

CAMPBIE CUSTOMER SERVICE CENTRE
137 Beamish Street, Campsie NSW 2194
PO Box 8, Bankstown NSW 1885

CANTERBURY-BANKSTOWN COUNCIL
ABN 45 985 891 846 P. 9707 9000 F. 9707 9700
W. cbc.city.nsw.gov.au
E. council@cbc.city.nsw.gov.au

of the site. The site is also contaminated and subject to medium risk flooding within the Kelso and Milperra catchments.



Figure 2: From site inspection (Horsley Road (northern end of the site))



Figure 3: From site inspection (Horsley Road (mid-point of the site))



Figure 4: From site inspection (Horsley Road (southern end of the site))

The area surrounding the site is characterised by a mix of industrial, commercial, and educational uses. Surrounding development comprises a variety of warehouses to the north of the site, various engineering firms and industrial warehouses to the south, industrial land uses to the east and Western Sydney University Bankstown Campus and Mount St Joseph Catholic College Milperra School to the west.

PROPOSED DEVELOPMENT

This DA seeks approval for the demolition of existing structures and remediation of the site at 270 & 286 Horsley Road, Milperra as part of Phase 1 works. The scope of these works comprises remediation of 150,000–240,000m³ of contaminated soils, as well as site preparation works, demolition of all existing structures on site, the clearing of vegetation, site grading and construction of retaining walls to achieve bulk earthworks levels. Specifically, the Phase 1 works comprise:

- Levelling to bulk earthworks levels. This may also include excavation of some service trenches within the fill that are to be backfilled with imported clean fill for later service installation, and the construction of retaining walls.
- Excavation of a soil vapour interception trench targeting sections of the site boundary.
- Installation of a capping layer (over a marker layer) which minimises exposure to asbestos-impacted fill and reduces infiltration of rainfall into the existing soil profile.

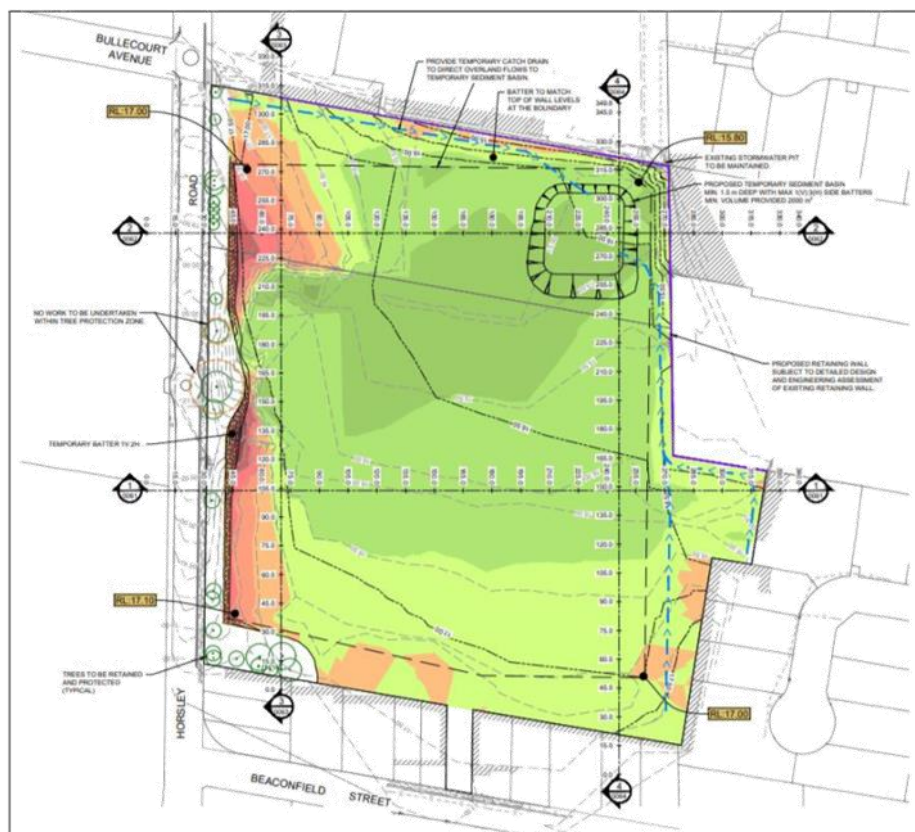
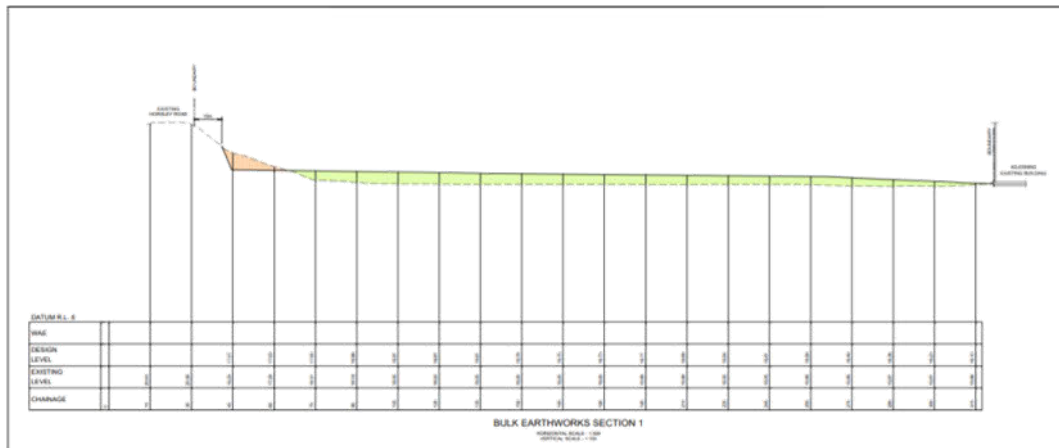


Figure 5: Bulk Earthworks Plan Source: Craig & Rhodes

The image above (Figure 5), shows the extent of cut and fill proposed across the site. The areas shaded red are indicative of varying levels of cut and the areas shaded green are indicative of varying levels of fill. The sections shown below indicate the cut and fill in detail, including existing levels and proposed levels (Figures 6, 7, 8 & 9). The location of the individual sections, shown below, can be referenced in Figure 5 above.



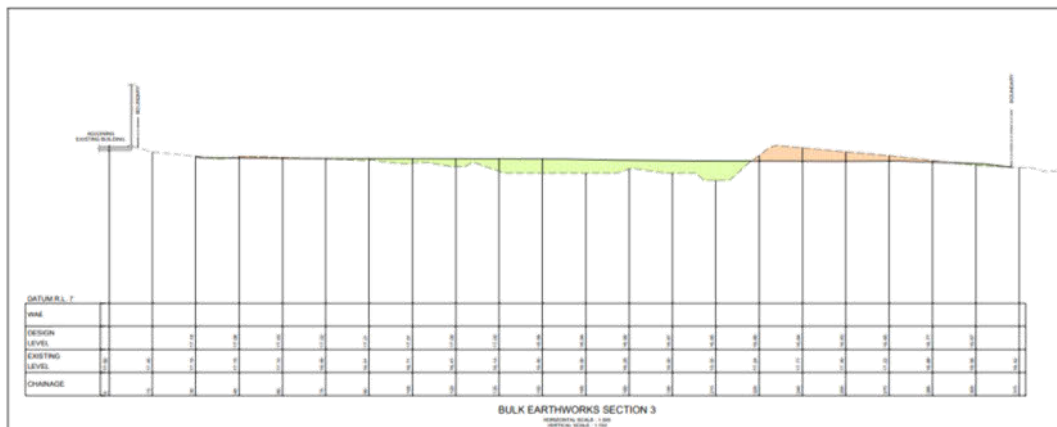


Figure 8: Site Section 3 (See Figure 5) Source: Craig & Rhodes

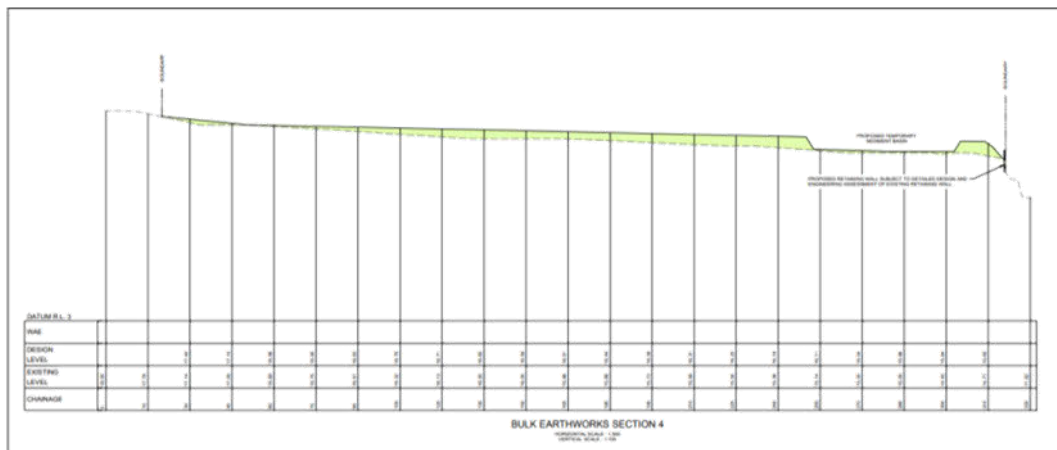


Figure 9: Site Section 4 (See Figure 5) Source: Craig & Rhodes

The proposed works are to be carried out under a Remediation Action Plan (RAP) to ensure that the suitable remediation and management techniques are implemented to facilitate the future industrial warehouse and logistics uses on the site, subject to separate future applications.

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:

- Environmental Planning & Assessment Regulation 2021;
- *Protection of the Environment Operations Act 1997*;
- *Biodiversity Conservation Act 2016*;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- Canterbury Bankstown Local Environmental Plan (CBLEP 2023);
- Bankstown Local Environmental Plan 2015 (BLEP 2015);
- Bankstown Development Control Plan 2015 (BDCP 2015);
- Bankstown Section 94A Development Contributions Plan.

Environmental Planning & Assessment Regulation 2021

Designated Development

The application is designated development in accordance with Schedule 3, Part 2, Clause 20(3)(a) and (b)(ii) & (iii) of the Environmental Planning and Assessment Regulation 2021, which reads as follows:

20 Contaminated soil treatment works

(3) *Development for the purposes of contaminated soil treatment works is designated development if—*

(a) *the contaminated soil originates exclusively from the site on which the development is located, and*

(b) *the works—*

(i) *incinerate more than 1,000 cubic metres per year of contaminated soil, or*

(ii) *treat, otherwise than by incineration, and store more than 30,000 cubic metres of contaminated soil, or*

(iii) *disturb more than an aggregate area of 3 hectares of contaminated soil.*

The proposed development includes the remediation of 150,000–240,000m³ of contaminated soils.

Given the works are classified as Designated Development, the application is required to be accompanied by an Environmental Impact Statement (EIS). The EIS is required to be prepared in accordance with the Planning Secretary's requirements. The applicant consulted with the Secretary of the Department of Planning, Industry and Environment (DPIE) to obtain the Secretary's Environmental Assessment Requirements (SEARs). The DPIE issued SEARs on 4 August 2022. The EIS submitted and prepared by ESR Australia considers the SEARs provided by the Secretary of DPIE.

Protection of the Environment Operations Act 1997

Integrated Development

The proposal is classified as Integrated Development pursuant to Clause 4.46 of the *Environmental Planning and Assessment Act 1979*. The proposal triggers section 48

of the *Protection of the Environment Operations Act 1997 (PoEO Act)* requiring an environment protection licence to authorise the carrying out of scheduled development work at any premises.

In accordance with Section 48 of the *PoEO Act*, a person is required to obtain a licence from the EPA before carrying out any of the premises-based activities described in Schedule 1 of that Act. Clause 15 of Part 1 of Schedule 1 includes the following activities:

15 Contaminated soil treatment

1. *This clause applies to contaminated soil treatment, meaning the on site or off site treatment of contaminated soil (including, in either case, incineration or storage of contaminated soil but excluding excavation for treatment at another site).*
2. *The activity to which this clause applies is declared to be a scheduled activity if—*
 - a) *in any case, it has the capacity to treat more than 1,000 cubic metres per year of contaminated soil received from off site, or*
 - b) *where it treats contaminated soil originating exclusively on site, it has a capacity—*
 - i. *to incinerate more than 1,000 cubic metres per year of contaminated soil, or*
 - ii. *to treat (otherwise than by incineration) and store more than 30,000 cubic metres of contaminated soil, or*
 - iii. *to disturb more than an aggregate area of 3 hectares of contaminated soil.*

As the remediation works at the site (as detailed in the EIS) will involve the treatment of more than 30,000m³ of contaminated soil, a licence from the EPA is required for the proposed works on-site.

The application was referred to the NSW Environmental Planning Authority (EPA) via the NSW Planning Portal and they advised that a licence was not required in this instance.

Feedback provided by the EPA, as to the reason for not requiring the applicant to obtain a licence was as follows:

...The information provided as part of the EIS (Ethos Urban 7 September 2022) indicates that the primary remedial approach proposed to be implemented at 270 Horsley Road Milperra (the site) will leave the contaminated soil in place and be capped. We do not consider that this constitutes "treat" and "store" as the material is essentially being left in place (i.e. no actual treatment of the contaminated material will occur).

The Remediation Action Plan (Douglas Partners August 2022 - EIS Appendix C) indicates, as a contingency, "opportunistic targeted on-site soil treatment may also be considered as part of the works". However there is no soil volume estimate provided in the RAP as part of this recommendation and it appears to be unrelated to the soil volume figure provided in the EIS, the source of which is not reported.

Based on the information provided, the threshold for contaminated soil treatment in the Protection of the Environment Operations Act 1997 (Schedule 1, Clause 15) is not likely to be met and therefore an Environment Protection Licence is not considered to be required for the works. Please note it is the

responsibility of a person undertaking an activity to hold a licence under the Act if one is required. This advice is provided by the EPA in good faith based on the available information, but the final legal responsibility around whether a licence is required rests with the person undertaking the activity.

Regarding the management of contaminated material during the remediation and redevelopment works (should approval be granted), the EPA-accredited Site Auditor will play an essential role in ensuring that the proposed remedial actions are appropriate to make the site suitable for the proposed use, and ensure that an Auditor-approved RAP is adequately implemented. The Auditor will also ensure that any post-development, long term management plans are appropriate...

From the EPA response, it is evident that a licence is not considered necessary in this instance by the licence issuer (i.e. the EPA). However, given the extent of remediation works being undertaken, the consent authority can be confident that, should a need for licence occur, the EPA-accredited site auditor overseeing the remediation works will be able to advise the proponent of the need for such a licence.

Biodiversity Conservation Act 2016

In accordance with Part 7.7 of the *Biodiversity Conservation Act 2016*, a Biodiversity Development Assessment Report (BDAR) is to accompany a Development Application if the proposed development is likely to significantly affect threatened species. As detailed within this report, the proposal is likely to affect threatened species and therefore a BDAR has been submitted as part of this application.

The street frontage to Horsley Road and part of the south-west corner of the site has a planted landscape, comprising mature trees and shrubs, and turf. Most of this is proposed to be retained.

The tree and landscaping removal works include mature tree plantings across the north-east corner, the central-east area, and near the north-west corner of the site. The retention and removal works are shown in Figures 10 & 11 below. In total, the proposed clearing of native vegetation is 0.34ha.



Figure 10: Native Vegetation Map Source: Vegetation Management Plan



Figure 11: Tree Removal Map Source: Vegetation Management Plan

The large remnant Grey Box (*E.moluccana*) on the central east 'corner' of the site (shown as '1119' in Figure 11) will not be retained by the proposal. The tree, is representative of the original onsite Cumberland Shale Plains Woodland (a Critically Endangered Ecological Community, designated as PCT 3320 under NSW State Vegetation Type Map, 2022), and is to be offset by plantings of Grey Box as part of future landscaping works.

The applicant has shown, in Figure 12 below, the extent of the groundwater impact on the site (light blue markings). In response to this impact, a contingency soil vapour trench is required by the Remediation Action Plan (RAP), (prepared by GHD, and dated 4 May 2023) accompanying the development application. The trench would encroach into the Tree Protection Zone (TPZ) and into the immediate vicinity of the Grey Box (*E.moluccana*) on the central east 'corner'.

The location of soil vapour exceedances is also shown (purple markings). Soil vapour is known to be present in the north-eastern area of the site and extends off-site into the property known as 3 Marigold Place. In that respect, a soil vapour trench proposed in the RAP is shown to extend to the northern site boundary thereby impacting upon the mature tree plantings across the north-east corner of the site.



Figure 12: Contingency Soil Vapour Trench Installation Source: Remedial Action Plan (prepared by GHD, dated 4 May 2023)

In accordance with Part 6 of the *Biodiversity Conservation Act, 2016*, biodiversity offset obligations have been determined using the Biodiversity Assessment Method (BAM) calculator. In summary, the proposal generates the requirement for the following to occur:

Table 1 - Ecosystem credits required to be retired – like for like

| Impacted plant community type | Number of ecosystem credits | IBRA subregion | Offset trading group |
|-------------------------------|-----------------------------|----------------|---|
| PCT 3320 | 1 | Cumberland | Cumberland Plain Woodland in the Sydney Basin Bioregion |

Table 2 - Ecosystem credits required to be retired

| Impacted species credit species | Number of species credits | IBRA region |
|---------------------------------------|---------------------------|--------------|
| <i>Miniopterus australis</i> | 1 | Sydney Basin |
| <i>Miniopterus orianae oceanensis</i> | 1 | Sydney Basin |

Council's Environmental Planner has reviewed the submitted BDAR as well as the overall proposal and determined that the methodology of the report and the recommendations contained within, are sound and worthy of support, citing the relevant sections of the *Biodiversity Conservation Act 2016*. It is considered that the proposed impact on the PCT's are able to be supported based on the information contained within the submitted BDAR subject to conditions of consent.

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 (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The proposal has been assessed against the relevant aims and objectives of the policy which seeks to protect remaining native vegetation within urban areas. It is considered that the site contains remnant native vegetation and, based on the above assessment under the requirements of the *Biodiversity Conservation Act 2016*, the development is consistent with the aims and objectives of the SEPP.

The proposed development seeks approval for the removal of vegetation in accordance with the Tree Removal Map (Figure 5 of the Vegetation Management Plan and Figure 11 above). The proposed development was referred to Council's Tree Management Officer and Environmental Planner for assessment and was found to be supportable subject to conditions. As such, the proposal is considered suitable with respect to the requirements of the SEPP.

Chapter 6 Water catchments

The subject site is located within the Georges River Catchment. Chapter 6 applies to the site as outlined by Clause 6.1(c). The site is impacted by medium risk flooding and requires a stormwater system report for the site.

Chapter 6 requires Council to be satisfied that the proposal will satisfy the requirements of Clause 6.6, 6.8, 6.10 and 6.23. Clauses 6.6, 6.8, 6.10 and 6.23 read as follows.

6.6 Water quality and quantity

- (1) *In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—*
 - (a) *whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,*

- (b) *whether the development will have an adverse impact on water flow in a natural waterbody,*
- (c) *whether the development will increase the amount of stormwater run-off from a site,*
- (d) *whether the development will incorporate on-site stormwater retention, infiltration or reuse,*
- (e) *the impact of the development on the level and quality of the water table,*
- (f) *the cumulative environmental impact of the development on the regulated catchment,*
- (g) *whether the development makes adequate provision to protect the quality and quantity of ground water.*
- (2) *Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—*
 - (a) *the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and*
 - (b) *the impact on water flow in a natural waterbody will be minimised.*
- (3) *Subsections (1)(a) and (2)(a) do not apply to development on land in the Sydney Drinking Water Catchment.*

Note—

Part 6.5 contains provisions requiring development in the Sydney Drinking Water Catchment to have a neutral or beneficial effect on water quality.

6.8 Flooding

- (1) *In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.*
- (2) *Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—*
 - (a) *if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or*
 - (b) *have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems*

6.10 Total catchment management

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.

6.23 Demolition on certain land

- (1) *This section applies to land—*
 - (a) *in a regulated catchment, and*
 - (b) *to which a local environmental plan that adopts the Standard Instrument does not apply.*
- (2) *Development that involves the demolition of a building or work may be carried out only with development consent.*

The application was accompanied by a Stormwater Systems Report and Civil Engineering works plans. The documentation has been reviewed by Council's Development Engineer and the development is considered suitable in regard to these matters.

It was also advised that the SSD application had been reviewed by the development engineering team as part of the SSD assessment process whereby Council are offered the opportunity to comment on the proposal and that the applicant has provided significant On-Site Detention to manage runoff from the site. As such, it is considered that the proposed works will not produce any unreasonable negative impact to the water quality, quantity or level of flooding within the Georges River Catchment, and any future development, whether it be SSD or any other development that may occur, can be approved in such a way as to address these issues.

On the basis of the documentation submitted and reviewed by Council, the proposal satisfies the requirements of Chapter 6 of the SEPP. The proposal will not result in any adverse impact on the catchment as a result of the approval of the application, subject to compliance with the report and documentation as outlined in the recommended conditions of consent.

State Environmental Planning Policy (Resilience and Hazards) 2021

This State Environmental Planning Policy aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. The SEPP states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

Clause 4.6(1) of Chapter 4 of SEPP (Resilience and Hazards) 2021 reads as follows;

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A Remediation Action Plan (RAP) was prepared and submitted for review and assessment. Within the RAP, it was noted that, the site has a history of industrial uses and legacy soil and groundwater impacts exist at the site. An investigation has been carried out of the site and the results of the investigation indicate that chlorinated hydrocarbons and petroleum hydrocarbons (to a lesser extent) are also present on the site in groundwater and soil vapour. It is considered that the level of affectation found is above the adopted health risk criteria. Asbestos, including fibrous and bonded materials, has also been identified in fill soils on the site.

The applicant has, as a part of the proposed development, and as required by the SEARs, appointed a NSW Environment Protection Authority (EPA) accredited Site Auditor.

The RAP has taken into account the type and location of known contaminants on the site and developed a suitable approach with regard to proposed remediation works that will bring the site to a state suitable for a proposed commercial / industrial land use setting, with no basements, subject to an environmental management plan.

The RAP identifies at Chapter 2.4, the contamination status of the site and details the findings of previous investigations of the site. An overview of the contamination status is as follows:

Volatile chlorinated compounds are the key contaminants of concern at the site and are consistent with the type of chemicals formerly used in on-site vapour degreasers and their degradation products. The extent of groundwater and soil vapour contamination with chlorinated solvents is largely focused around three known or suspected former vapour degreasers which were the key historical sources in Plant 1, with a secondary source area in the eastern area (Maintenance area) of Plant 2. The location of these features is shown on Figure 2, Appendix A.

Based on previous studies, deep groundwater is most impacted around these degreasers and immediately down hydraulic gradient to the north-east. Soil vapour concentrations are also highest around the former degreasers, although more widely spread than identified groundwater contamination. This is thought to be primarily a result of lateral migration of soil vapours from impact around the degreasers in fill material below the confining slab and hard standing around Plant 1. However, it is also likely that additional, localised shallow soil sources from ad-hoc degreaser storage in unbunded areas and associated spills and leaks have contributed to wider impact of soil vapour away from the degreaser areas. This is also considered to be the most likely source of soil vapour impact in the eastern yard (VW05, VW15 including former dangerous goods storage area) and it is noted that parts of the eastern site boundary were formerly soft landscaped and subject to run-off (Woodward Clyde, 1999).

Indoor air assessments at Plant 1 (GHD, 2016b) indicated that sub-slab vapour sources are contributing to indoor air impacts in respect of TCE, which has been measured in indoor air at approximately five times higher than the adopted environmental assessment criterion in the area of the former eastern vapour degreaser. However, indoor air concentrations were significantly less in 2016 compared to 2011, indicating that the source was attenuating. Following installation of a sub-slab depressurisation (SSD) system in Plant 1 in 2019, results of indoor air monitoring carried out by GHD indicate the indoor air quality within the Plant 1 warehouse improved to meet chronic exposure criteria for a commercial/industrial scenario (assuming ventilation conditions remained consistent with those observed during monitoring, and ongoing operation of the sub-slab depressurisation system). Based on these results, it was concluded that the former site EMP (GHD, 2018b) could be revised to remove restrictions on occupation of Plant 1, subject to periodic confirmation testing of indoor air quality.

There are not considered to be any on-going primary sources of chlorinated solvent impacts on the site.

A detailed review of the contamination status per area of the site (Eastern yard, Plant 1, Plant 2 and off-site) is provided in the site EMPs (GHD, 2020a; GHD, 2020b).

The conceptual site model for the site in its current configuration (GHD, 2020a; GHD, 2020b) concluded that the following potential hazards need to be managed (refer to Section 3 for further details):

- Potential vapour inhalation during works carried out in Plant 1*
- Potential exposure to vapour inhalation during intrusive works in parts of the site and off-site.*
- Potential direct contact with contaminated soil during intrusive works in parts of the site and off-site.*
- Potential changes to the groundwater regime below the site which could result in off-site migration of contaminants.*
- Potential inhalation of asbestos fibres from fill materials during intrusive maintenance works.*

Given the identified potential for exposure of certain site users to the identified contamination at the site, several control measures are necessary to control this exposure for ongoing use of the site in its current configuration.

These are outlined in the EMPs (GHD, 2020a; GHD, 2020b) which are the basis for the annual monitoring works conducted at the site.

The known locations of contamination within the site are shown in Figure 3 of the RAP, and replicated below (Figure 13):

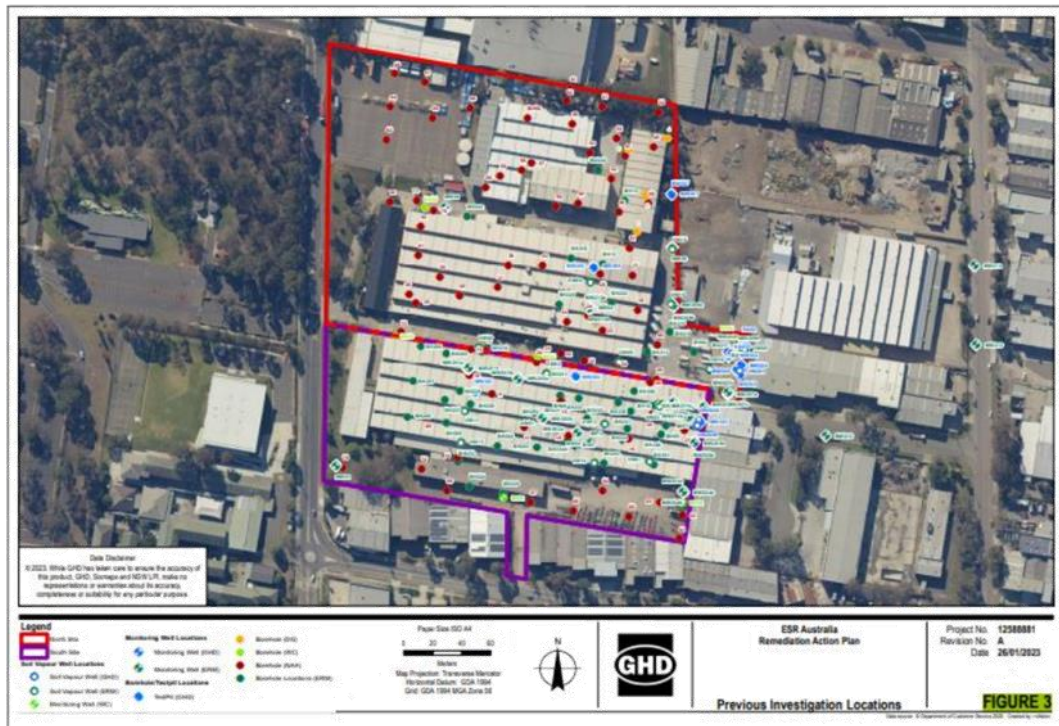


Figure 13: Previous Investigation Locations **Source:** Remediation Action Plan (GHD, 4 May 2023)

Following a remedial options assessment undertaken in the RAP, the following remediation works and ongoing site management will be undertaken as part of making the site suitable for commercial / industrial use in the new development configuration, subject to an environmental management plan.

The remedial works are also intended to reduce the residual soil source of contamination which will in turn limit potential future liability in respect of off-site contamination issues. The scope of remediation work will comprise:

- A supplementary site assessment of soil vapours, soil leachability and concrete leachability to address data gaps for the remediation works and inform the required targeted remedial extents.
- Targeted soil remediation around former underground storage tanks (USTs) and degreasers, to remove potentially elevated residual impacts.
- Extension of a vapour trench along the eastern site boundary to manage potential off-site migration of vapours post remedial works.
- Capping of the site with imported clean soils and/or pavements to manage potential risks from asbestos impacts in fill materials.
- Development building design to include installation of a vapour barrier (where required) to mitigate vapour intrusion risk.
- Post remediation monitoring.
- Development of a passive EMP for the site in the new configuration to manage risk from residual contamination.

Conditions of consent have been imposed to ensure that the site is remediated in accordance with the Remediation Action Plan, prepared by GHD, dated 4 May 2023, reference: 12588881; and that the recommendations are implemented throughout the development and are overseen by an appropriately qualified and experienced environmental consultant, under the supervision of an EPA-accredited site auditor.

Having regard to the assessment set out above, the Panel can be satisfied that the development site is suitable for the proposed development, in accordance with clause 4.6(1) of SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Ausgrid

The proposed development involves works that will likely affect an electricity transmission or distribution network. In accordance with Part 2.3, Division 5 Electricity transmission or distribution networks in the SEPP, a referral to the electricity supply authority for the area was required.

Ausgrid have assessed the plans lodged in support of the application and advise that they consent to the proposed development subject to conditions being imposed on any development consent relating to certain matters including the supply of electricity to the site, infrastructure installation, and managing any impacts on existing electricity network assets.

The full set of conditions contained in Ausgrid's advice is included in the recommended conditions of consent at Attachment 'B' to this report.

Canterbury Bankstown Local Environmental Plan 2023

Canterbury Bankstown Local Environmental Plan 2023 (BLEP 2023) was gazetted on 23 June 2023. Clause 1.8A "Savings provision relating to development applications" of the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP) states;

"If a development application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if this plan had not commenced."

This particular development application was formally made on 9 November 2022 which predates the commencement of the CBLEP 2023 on 23 June 2023. Therefore, the application was assessed against the provisions contained in the Bankstown Local Environmental Plan 2015.

Bankstown Local Environmental Plan 2015

An assessment of the proposed development against the relevant requirements of BLEP 2015 has been undertaken below:

| Clause | Standard / Requirement | Comments | Complies | | |
|---|--|--|----------|---|-----|
| | | | Y | N | N/A |
| Clause 1.2 Aims of Plan | That the development is consistent with the aims of the Plan. | The proposal complies with the relevant aims of the LEP as demonstrated by its consistency with the provisions contained within the instrument. | Y | | |
| Clause 2.3 Zone objectives and Land Use Table | <p>The 'Land Zoning Map' identifies the site as being zoned 'IN2 Light Industrial'.</p> <p>The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p> <p>The objectives of the 'IN2 Light Industrial' zone are as follows:</p> <ul style="list-style-type: none"> • To provide a wide range of light industrial, warehouse and related land uses. • To encourage employment opportunities and to support the viability of centres. • To minimise any adverse effect of industry on other land uses. • To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area. • To support and protect industrial land for industrial uses. | The proposal is to provide bulk earthworks that will facilitate the future development of a range of light industrial warehouses and related land uses, encourage employment opportunities and support the viability of centres and support and protect industrial land for industrial uses. | Y | | |
| Clause 2.7 Demolition requires development consent | The demolition of a building or work may be carried out only with development consent. | Demolition of all structures on site is proposed and will be conditioned to comply with the relevant Australian Standards and Work Cover requirements. | Y | | |

| Clause | Standard / Requirement | Comments | Complies | | |
|--|---|---|----------|---|-----|
| | | | Y | N | N/A |
| Clause 5.21(2) and 5.21(3) Flood planning | <p>Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters –</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design</p> | <p>The application was accompanied by a Stormwater Systems Report and Civil Engineering works plans. The documentation has been reviewed by Council's Development Engineer and the development is considered suitable with regard to these matters.</p> <p>Further, the SSD application has been reviewed by the development engineering team as part of the SSD assessment process whereby Council are offered the opportunity to comment on the proposal and that the applicant has provided significant On-Site Detention to manage runoff from the site.</p> <p>As such, it is considered that the proposed works will not produce any unreasonable negative impact to the water quality, quantity or flooding within the Georges River Catchment, and any future development, whether it be the SSD or any other development that may occur, can be approved in such a way as to address these issues.</p> <p>As such, it is considered that the proposed works will not produce any unreasonable negative</p> | Y | | |

| Clause | Standard / Requirement | Comments | Complies | | |
|--------------------------|--|--|----------|---|-----|
| | | | Y | N | N/A |
| | and scale of buildings resulting from the development, (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood, (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion. | impact to the water quality, quantity or level of flooding within the Georges River Catchment. | | | |
| 6.1 Acid sulfate soils | <p>(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>Class 5</p> <p>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p> <p>(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p> | The site is identified as being Class 5 Acid sulfate soils. A review of the proposed works shows that the land is not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum, and as such an acid sulfate soils management plan is not required. | | Y | |
| Clause 6.2(3) Earthworks | In deciding whether to grant development consent | The proposal includes earthworks to facilitate | | | |

| Clause | Standard / Requirement | Comments | Complies | | |
|--------|---|--|----------|---|-----|
| | | | Y | N | N/A |
| | <p>for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> | <p>the remediation of the site and to prepare the site for construction.</p> <p>It is not considered likely that the earthworks proposed would cause any detrimental impacts on the drainage patterns, soil stability, amenity of adjoining properties, or future redevelopment of land.</p> | | | |

The above assessment of the Development Application has revealed that the proposal complies with the matters raised in each of the above clauses of Bankstown Local Environmental Plan 2015.

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

There are no draft environmental planning instruments relevant to the proposed development.

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

A summary of the development application against the controls contained in Part B3 Industrial Precincts of the Bankstown Development Control Plan 2015 is provided below.

Section 4.1 Acoustic Privacy

The relevant development controls relate to requiring adequate soundproofing to any machinery or activity that is considered to create a noise nuisance.

A noise and vibration impact assessment was prepared and submitted as part of the application. The report considered the NSW Interim Construction Noise Guideline (as outlined within Chapter 3 of the assessment), to assess and manage impacts from construction noise at residences and 'other sensitive' land uses.

The assessment found that noise impacts may be apparent at the nearest receivers during proposed site works and recommended in Section 4.5 of the noise and vibration impact assessment, that the project should apply all feasible and reasonable 'best-practice' mitigation measures to minimise the impacts, particularly during noise intensive works, such as demolition and remediation.

The noise and vibration impact assessment has been reviewed by Council's Environmental Health Officer who raised no objection to the proposal, subject to conditions of consent.

Section 4.2 –Pollution Control

The relevant development controls relating to pollution control require that development adequately controls any fumes, odour emissions, and potential water pollutants in accordance with the requirements of the relevant public authority.

A construction air quality assessment was prepared and submitted as part of the application. The report considered the existing contaminants at the site (as outlined within the RAP) which may be a source of emissions during the demolition and remediation phases of the development.

The results of the assessment found the following:

The main potential sources of emissions to air were identified as dust during the demolition works, and VHCs and odour during the remediation phase.

The potential for off-site dust impacts was assessed using a qualitative risk-based approach, the results of which indicate that dust impacts due to the demolition works are unlikely to adversely impact on surrounding sensitive land uses.

The potential for off-site air quality impacts due to land remediation activities was also assessed using a qualitative risk-based approach. This concludes that the potential impact of the remediation activities on the local sensitive receptors is neutral.

Based on the qualitative assessments performed, which take into account the scale and nature of the proposed operations, site location and mitigation measures adopted, SLR concludes that any exceedances of the relevant air quality criteria due to the demolition works and remediation activities on-site are unlikely and further quantitative assessment is not warranted. The additional mitigation measures recommended in this report will assist in further reducing the risk of any adverse off-site air quality impacts.

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

Section 4.5 - Open Space

The relevant development controls relating to open space requires both the retention and protection of trees on the site and the adjoining land and the retention of the natural ground level within 3m of the base of the trunk or dripline, whichever is the greatest.

The proposed landscaped design satisfies the relevant controls as follows:

- The application seeks consent for the removal as well as retention of a number of trees contained on the site. A tree protection zone will be established for the trees fronting Horsley Road that will be retained prior to the bulk earthworks occurring.
- Council's Biodiversity Officer has reviewed the application and raises no objection, subject to conditions of consent.
- The proposed landscaping will consist of local species and will be consistent and complement the landscaped area that adjoins the site.
- A BDAR has been submitted which outlines the recommended environmental management measures to be enforced to minimise biodiversity impacts. Furthermore, biodiversity offset obligations have been determined using the BAM calculator.

As outlined above, the application involves the removal of some trees and vegetation on the site. The application has been accompanied with a RAP, BDAR, Vegetation Management Plan and Landscape Plan. All of these documents have been reviewed concurrently by Council's Biodiversity Officer who raised no objection to the removal and retention of the nominated trees, subject to conditions of consent.

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

There are no planning agreements applicable to the proposal.

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

As outlined earlier within this report, the application triggers additional considerations in accordance with the *Environmental Planning and Assessment Regulations 2021*, *Protection of Environment Operations Act 1997* and *Protection of the Environment Operations (Waste) Regulation 2014*.

For the reasons outlined within this report, the proposed development is consistent with the relevant requirements outlined within these regulations.

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

While the proposal will have an impact on the ecological community (Cumberland Shale Plains Woodland - a Critically Endangered Ecological Community, designated as PCT 3320 under NSW State Vegetation Type Map, 2022), it is considered that the impact is acceptable and it is worthy of support, subject to conditions of consent, as detailed earlier in this report.

Furthermore, the SEARs provided by the Secretary of the DPIE requires an assessment of all potential impacts of the proposed development. As such, a summary of the SEARs issued on 4 August 2022 is provided in the table below.

| Secretary's Requirement | Comment | Addressed |
|---|--|-----------|
| General Requirement | | |
| The Environmental Impact Statement (EIS) must comply with the assessment requirements and meet the minimum form and content requirements in sections 190 and 192 of the Environmental Planning and Assessment Regulation 2021. | The EIS submitted has adequately addressed the requirements in sections 190 and 192 of the Environmental Planning and Assessment Regulation 2021. | Yes |
| Key Issues | | |
| The EIS must include an assessment of all potential impacts of the proposed development on the existing environment (including cumulative impacts if necessary) and develop appropriate measures to avoid, minimise, mitigate and/or manage these potential impacts. As part of the EIS assessment, the following matters must also be addressed: | | |
| <ul style="list-style-type: none"> • strategic context – including: <ul style="list-style-type: none"> - a detailed justification for the proposal and suitability of the site for the development; - a demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies; - a list of any approvals that must be obtained under any other Act or law before the development may lawfully be carried out; and - a description of any additional licence(s) or approval(s) required to carry out the proposed development. | <p>The strategic context requirements are outlined within Section 5.0 of the EIS submitted and summarised where required within this report.</p> <p>An assessment of the application against the relevant planning legislation has been undertaken within the body of this report. As demonstrated, the proposal achieves a high level of compliance with the relevant controls.</p> | Yes |
| <ul style="list-style-type: none"> • contamination – including: <ul style="list-style-type: none"> - a detailed assessment of the extent and nature of any | The contamination requirements have been considered within Section 6.1 of the EIS as well as | Yes |

| Secretary's Requirement | Comment | Addressed |
|---|--|-----------|
| General Requirement | | |
| <p>contamination of the soil, groundwater and marine sediments and the suitability of the land in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021 (Chapter 4)</p> <ul style="list-style-type: none"> - conceptual site model detailing the potential risks to human health and the environmental receptors in the vicinity of the site the preparation of a Remedial Action Plan (RAP) for the site, overseen by an accredited NSW EPA Site Auditor - details of the proposed validation reporting upon completion of the work and long-term management of the capped residual contamination that is proposed to remain on the site | <p>under State Environmental Planning Policy (Resilience and Hazards) 2021 of this report.</p> <p>Council's Environmental Health Officer has reviewed the application and raises no objection, subject to conditions of consent.</p> | |
| <ul style="list-style-type: none"> • occupational health and safety – including: <ul style="list-style-type: none"> - details of mitigation and management measures to be implemented during the remediation works to minimise human health risks and ensure the safety of - workers and nearby residents, including the measures to monitor and manage the exposure of workers to contaminants - details of how the proposal will meet the requirements of the Work Health and Safety Regulation 2017. | <p>The occupational health and safety requirements have been considered within Section 8.0 and Appendix C of the EIS as well as under State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>Council's Environmental Health Officer has reviewed the application and raises no objection, subject to conditions of consent.</p> | Yes |

| Secretary's Requirement | Comment | Addressed |
|--|---|-----------|
| General Requirement | | |
| <ul style="list-style-type: none"> • soil and water – including: <ul style="list-style-type: none"> - a description of local soils, topography, drainage and landscapes - details of water usage for the proposal including existing and proposed water licencing requirements in accordance with the Water Act 1912 and/or the Water Management Act 2000 - details of sediment and erosion controls - a detailed site water balance - an assessment in accordance with ASSMAC Guidelines for the presence and extent of acid sulfate soils (ASS) and potential acid sulfate soils (PASS) on the site and, where relevant, appropriate mitigation measures - an assessment of potential impacts on the quality and quantity of surface and groundwater resources - details of the proposed stormwater and wastewater management systems (including sewage), water monitoring program and other measures to mitigate surface and groundwater impacts - a description and appraisal of impact mitigation and monitoring measures | <p>The soil & water requirements have been considered within Section 2.0 and 6.9 and Appendix C and M of the EIS.</p> <p>Council's Environmental Health Officer has reviewed the application and raises no objection, subject to conditions of consent.</p> | Yes |
| <ul style="list-style-type: none"> • hazards and risk – including: <ul style="list-style-type: none"> - a preliminary risk screening completed in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 3 and Applying SEPP 33 (DoP, 2011), with a clear indication of class, quantity and location of all dangerous goods and hazardous materials associated with the development. Should | <p>The requirements for hazards and risk are addressed within Section 6.10 of the EIS and summarised where required within this report.</p> <p>Council's Environmental Planner, Environmental Health Officer and Development Engineer have reviewed the application and raise no objection, subject to conditions of consent, where applicable.</p> | Yes |

| Secretary's Requirement | Comment | Addressed |
|--|--|-----------|
| General Requirement | | |
| <p>preliminary screening indicate that the project is "potentially hazardous" a Preliminary Hazard Analysis (PHA) must be prepared in accordance with Hazardous Industry Planning Advisory Paper No. 6 - Guidelines for Hazard Analysis (DoP, 2011) and Multi-Level Risk Assessment (DoP, 2011)</p> <ul style="list-style-type: none"> - any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations to address this. | | |
| <ul style="list-style-type: none"> • waste management – including: <ul style="list-style-type: none"> - details of waste handling including, transport, identification, receipt, stockpiling and quality control - the measures that would be implemented to ensure that the proposed development is consistent with the aims, objectives and guidelines in the NSW Waste Avoidance and Sustainable Materials Strategy 2041. | Waste Management is detailed within Section 6.3 and Appendix J of the EIS summarised where required within this report. | Yes |
| <ul style="list-style-type: none"> • air quality and odour – including: <ul style="list-style-type: none"> - A description of all potential sources of air and odour emissions during demolition and remediation - An air quality impact assessment in accordance with relevant Environment Protection Authority guidelines - A description and appraisal of air quality impact mitigation and monitoring measures. | <p>The requirements for air quality and odour are addressed within Section 6.4 and Appendix K of the EIS and summarised where required within this report.</p> <p>Council's Environmental Health Officer has reviewed the documentation and raises no objection, subject to conditions of consent.</p> | Yes |
| <ul style="list-style-type: none"> • noise and vibration – including: <ul style="list-style-type: none"> - A description of all potential noise and vibration sources during demolition and remediation, including road traffic noise - A noise and vibration | <p>Noise and Vibration requirements are addressed within Section 6.2 and Appendix I of the EIS and summarised where required within this report.</p> <p>The information submitted has</p> | Yes |

| Secretary's Requirement | Comment | Addressed |
|---|---|-----------|
| General Requirement | | |
| <p>assessment in accordance with the relevant Environment Protection Authority guidelines</p> <ul style="list-style-type: none"> - A description and appraisal of noise and vibration mitigation and monitoring measures. | <p>also been considered by Council's Environmental Health Officer and Infrastructure Specialist who raise no objection, subject to conditions of consent.</p> | |
| <ul style="list-style-type: none"> • traffic and transport – including: <ul style="list-style-type: none"> - details of road transport routes and access to the site - road traffic predictions for the development during demolition and carrying out of works - swept path diagrams depicting vehicles entering, exiting and manoeuvring throughout the site - an assessment of impacts to the safety and function of the road network and the details of any road upgrades required for the development. | <p>The traffic and transport requirements are addressed within Section 6.5 and Appendix E of the EIS and where required within this report.</p> <p>A condition of consent requiring the development and submission of a Construction Traffic Management Plan (CTMP) has been provided.</p> | Yes |
| <ul style="list-style-type: none"> • biodiversity – including: <ul style="list-style-type: none"> - accurate predictions of any vegetation clearing on site or for any road upgrades - a detailed assessment of the potential impacts on any threatened species, populations, endangered ecological communities or their habitats, groundwater dependent ecosystems and any potential for offset requirements in accordance with the current Environment, Energy and Science Group legislation and guidelines - details of weed management during demolition and remediation in accordance with existing State, regional or local weed management plans or strategies - a detailed description of the measures to avoid, minimise, mitigate and/or offset biodiversity impacts. | <p>The biodiversity requirements are outlined within Sections 2, 6.6 and Appendix G & H of the EIS and where relevant in this report.</p> <p>Further information was requested from the Applicant to address biodiversity offsets, based on comments received from Council's Environmental Planner.</p> <p>The response provided by the applicant addressed the additional concerns and no further concern was raised by Council's Environmental Planner, subject to conditions of consent.</p> | Yes |

| Secretary's Requirement | Comment | Addressed |
|---|---|-----------|
| General Requirement | | |
| • visual – including an impact assessment at private receptors and public vantage points. | The visual requirements are outlined within Section 6.7 of the EIS and as required within this report. | Yes |
| • heritage – including Aboriginal and non-Aboriginal cultural heritage. | The heritage requirements are outlined within Section 6.8 and Appendix L of the EIS and as required in this report. | Yes |
| Environmental Planning Instruments and other policies | | |
| The EIS must assess the proposal against the relevant environmental planning instruments, including but not limited to: <ul style="list-style-type: none"> - State Environmental Planning Policy (Transport and Infrastructure) 2021 (Chapter 2) - State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Chapter 2) - State Environmental Planning Policy (Resilience and Hazards) 2021 (Chapter 3 and 4) - Canterbury Local Environmental Plan 2012 relevant development control plans and section 7.11 plans. | The EIS has addressed the relevant environmental planning instruments. Regarding Canterbury Local Environmental Plan 2012, this instrument does not apply to the site. Bankstown Local Environmental Plan 2015 applies and has been referred to for assessment purposes. | Yes |

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

The proposal is permissible with development consent. The proposal seeks to demolish the existing structures and remediate the subject site to make the site suitable for a future industrial development. The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the proposal complies with the relevant controls. Subsequently, the site is suitable for the proposal.

Submissions [section 4.15(1)(d)]

The application was initially notified and advertised for a period of 28 days, from 30 November 2022, until 18 January 2023 (inclusive of the Christmas blackout period). No objections were received during this period.

The application was re-notified again during the assessment for a period of 14 days from 23 August 2023 until 5 September 2023 and one submission was received which raised concerns relating to the following:

Submission: Noise and vibration impacts on machinery of adjoining premises.

Response: A noise and vibration impact assessment was submitted with the application. The report was prepared to assess and manage impacts from construction noise at residences and 'other sensitive' land uses.

The assessment found that while noise impacts may be apparent at the nearest receivers during proposed site works, it was recommended that the project should apply all feasible and reasonable 'best-practice' mitigation measures to minimise the impacts, particularly during noise intensive works, such as demolition and remediation.

The noise and vibration impact assessment has been reviewed by Council's Environmental Health Officer who raised no objection to the noise and vibration impact assessment, subject to conditions of consent.

Submission: Water seepage onto adjoining properties

Response: The proposed development is for bulk earthworks only. The formal construction of stormwater infrastructure will not occur until the site is developed. In the interim, the applicant has proposed to provide a network of catch drains on the site to collect surface water and direct it to two sediment control basins. This is detailed in Section 6.9 of the Environmental Impact Statement and the Erosion Sediment Control Plan submitted with the development application.

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

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

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning & Assessment Act 1979*, *Protection of the Environment Operations Act 1997*, *Biodiversity Conservation Act 2016*, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, Canterbury Bankstown Local Environmental Plan 2023, Bankstown Local Environmental Plan 2015, and Bankstown Development Control Plan 2015 and has been found to comply with the relevant requirements.

The proposal is considered to improve the site from an environmental and health perspective through the extensive remediation of existing contaminants, appropriately considers the impacts of the proposed works on biodiversity, and will ensure the site is suitable for future industrial use. Therefore, approval of the application is recommended, subject to conditions.

RECOMMENDATION

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

GENERAL CONDITIONS

1.

Approved Plans and supporting documentation

Approved plans and supporting documentation Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

| Approved plans | | | | |
|--------------------|-----------------|---|----------------|--------------|
| Plan number | Revision number | Plan title | Drawn by | Date of plan |
| 934-22C-BEW-0021 | C | Demolition plan | Craig & Rhodes | - |
| 934-22C-BEW-0051 | C | Bulk earthworks plan | Craig & Rhodes | - |
| 934-22C-BEW-0052 | C | Bulk earthworks plan proposed burial pit | Craig & Rhodes | - |
| 934-22C-BEW-0061 | C | Bulk earthworks site sections sheet 1 of 4 | Craig & Rhodes | - |
| 934-22C-BEW-0062 | C | Bulk earthworks site sections sheet 2 of 4 | Craig & Rhodes | - |
| 934-22C-BEW-0063 | C | Bulk earthworks site sections sheet 3 of 4 | Craig & Rhodes | - |
| 934-22C-BEW-0064 | C | Bulk earthworks site sections sheet 4 of 4 | Craig & Rhodes | - |
| 934-22C-DA-RW-0801 | A | Retaining wall plan | Craig & Rhodes | 03.08.23 |
| 934-22C-DA-RW-0811 | A | Retaining wall longitudinal sections sheet 1 of | Craig & Rhodes | 03.08.23 |

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| 934-22C-DA-RW-0812 | A | Retaining wall longitudinal sections sheet 2 of 2 | Craig & Rhodes | 03.08.23 |
| 934-22C-DA-RW-0821 | A | Retaining wall structural sections & details sheet 1 of 4 | Craig & Rhodes | 03.08.23 |
| 934-22C-DA-RW-0822 | A | Retaining wall structural sections & details sheet 2 of 4 | Craig & Rhodes | 03.08.23 |
| 934-22C-DA-RW-0823 | A | Retaining wall structural sections & details sheet 3 of 4 | Craig & Rhodes | 03.08.23 |
| 934-22C-DA-RW-0824 | A | Retaining wall structural sections & details sheet 4 of 4 | Craig & Rhodes | 03.08.23 |
| LEW-01 | E | Landscape tree canopy plan | Geoscapes | 09.11.23 |
| AN-24342 Sheet 3 of 8 | O | Site Plan 'A' & Detail Plan 'A' | Power Solutions | 08.02.2023 |
| AN-24342 Sheet 4 of 8 | O | Site Plan 'B' | Power Solutions | 08.02.2023 |
| AN-24342 Sheet 5 of 8 | O | Site Plan 'C' & Detail Plan 'B' | Power Solutions | 08.02.2023 |
| Approved documents | | | | |
| Document title | | Version number | Prepared by | Date of document |
| Environmental Impact Statement (with appendices unless specified) | | 2220113 | Ethos Urban | 07 September 2022 |

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| | below) | | | |
| | Remediation Action Plan | 1 | GHD | 4/05/2023 |
| | Vegetation Management Plan | AE23-REP-2498-ISS 5 | Abel Ecology | 9 November 2023 |
| | Prescribed Ecological Actions Report (PEAR) | AE22-2550-Iss-1 | Abel Ecology | 6 April 2023 |
| | Noise and Vibration Impact Assessment | 610.30924.00100-R01 | SLR | August 2022 |
| | Air Quality Impact Assessment | 610.30924-R01 | SLR | August 2022 |
| <p>In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p style="text-align: right;">1.101.S</p> | | | | |
| <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p> | | | | |
| 2. | Protection of the Environment | | | |
| | <p>The applicant must ensure that all activities within the site comply with the relevant sections of the <i>Protection of the Environment Operations Act 1997</i> and Regulations and the Noise Policy for Industry (NSW EPA, 2017).</p> <p style="text-align: right;">1.103</p> | | | |
| | <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p> | | | |

AUSGRID CONDITIONS

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| 3. | Ausgrid Underground Cables are in the vicinity of the development |
| | Care should be taken to ensure that construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. |
| | It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD). |
| | <p>The following points should be taken into consideration:</p> <p>Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.</p> <p>Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.</p> |
| | In addition to DBYD the proponent should refer to the following documents |

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| | <p>to support safety in design and construction:</p> <ul style="list-style-type: none"> - SafeWork Australia – Excavation Code of Practice. - Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables. This document can be found by visiting the Ausgrid website via www.ausgrid.com.au. - The Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can also be found by visiting the Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries |
| 4. | <p>Ausgrid Overhead Powerlines are in the vicinity of the development</p> <p>The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.</p> <p>Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.</p> <p>The "as constructed" minimum clearances to the mains must also be maintained.</p> <p>These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.</p> <p>It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.</p> <p>Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries</p> <p>For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.</p> <p>Visit the Ausgrid website for further details: https://www.ausgrid.com.au/Connections/Get-connected</p> |
| 5. | <p>Street lighting</p> <p>The developer is to consider the impact that existing streetlighting and any</p> |

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| | future replacement streetlight maintenance may have on the development. Should the developer determine that any existing streetlight impact the development, the developer should either review the development design, particular the place windows, or discuss with Ausgrid the options for relocating the streetlighting. The relocating of any street will generally be at the developers cost. In many cases is not possible to relocate streetlighting due to it positioning. |
| 6. | Service Mains It appears the existing overhead electricity service mains, that supply the subject property, may not have clearance to the proposed construction as per the requirements of "The Installation and Service Rules. It is recommended that the developer engage a Level 2 Accredited Service Provider (ASP) Electrician to confirm that the installation will comply with the Service Rules. |

DEMOLITION WORK

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| 7. | Demolition conditions The demolition of all structures on the property must be undertaken in accordance with all the following: <ul style="list-style-type: none"> a. Written notice must be issued to adjoining residents a minimum of seven (7) days before the commencement of demolition advising of the commencement date, b. Written notice must be issued to Council for inspection a minimum of (7) days before 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: <ul style="list-style-type: none"> i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before 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 before 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 – '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, |
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| | <p>j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,</p> <p>k. Adhere to the requirements stipulated in the approved Waste Management Plan, and</p> <p>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.</p> <p>A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work.</p> <p style="text-align: right;">3.201</p> <p>Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.</p> |
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BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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| 8. | <p>Development Contributions, Section 7.12</p> <p><u>Development Contributions of \$118,822.00 must be paid for this development before the issue of any construction certificate.</u> The contributions are levied and applied under the Canterbury Bankstown Local Infrastructure Contributions Plan 2022 and Section 7.12 of the <i>Environmental Planning and Assessment Act 1979</i>. The contributions will be used to provide, extend or augment public amenities or public services.</p> <p><u>Indexing of the contribution amount to be paid:</u> 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.</p> <p><u>No construction certificate is to be issued and no construction is to commence until payment of development contributions.</u> 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.</p> <p>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.</p> <p><u>NOTE: Development contribution amounts are non-refundable if you don't proceed with your development.</u></p> <p style="text-align: right;">2.102</p> <p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p> |
| 9. | <p>Payment of Fees</p> <p>Before Issuing a construction certificate, all the following must be paid to the relevant authority/entity and written evidence of these payments must be provided to the certifier.</p> <p>a. Levies</p> |

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| | <ul style="list-style-type: none"> b. Bonds c. Contributions d. inspection fees <p style="text-align: right;">2.103.S</p> |
| | Condition reason: To ensure compliance with the relevant New South Wales legislation. |
| 10. | <p>Long Service Levy</p> <p>Before the issue of the relevant construction certificate, payment of the long service levy is required, under the <i>Building and Construction industry Long Service Payments Act 1986</i>, section 34. Evidence of the payment is to be provided to the Certifier. Payment can be calculated using the Levy Portal Calculator at https://longservice.force.com/bci/s/levy-calculator. Payment must be made via the Long Service Levy Portal at https://www.longservice.nsw.gov.au.</p> <p style="text-align: right;">2.104.S</p> |
| | Condition reason: To ensure compliance with the relevant New South Wales legislation. |
| 11. | <p>Erosion and Sediment Control Plan</p> <p>Before the issue of a construction certificate, the consent holder 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:</p> <ul style="list-style-type: none"> 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). <p>The consent holder must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.</p> <p style="text-align: right;">2.211.S</p> |
| | Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development. |
| 12. | <p>Retaining Walls</p> <p>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.</p> <ul style="list-style-type: none"> 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 certifier before 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 |

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| | <p>boundaries.</p> <p style="text-align: right;">2.301</p> <p>Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies.</p> |
| 13. | <p>Apply for Work Permit for Engineering Works</p> <p>The consent holder 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:</p> <ul style="list-style-type: none"> a. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs, b. Repair of any damage to the public road including the footway occurring during building works, and c. Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority. <p>Note: Council is required to prepare a site survey and design in order to determine the necessary information. The consent holder should make application and payment for the Work Permit at least twenty-one (21) days before the information being required and before the issue of the construction certificate. The Work Permit must be approved before any works commencing within the Council Road Reserve or on Council's assets.</p> <p style="text-align: right;">2.302</p> <p>Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.</p> |
| 14. | <p>Works Requiring a Work Permit</p> <p>As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the <i>Roads Act 1993</i> and/or Section 68 of the <i>Local Government Act 1993</i>, Council requires the consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the 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:</p> <p>A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS</p> <p>WORKS REQUIRING A 'WORKS PERMIT'</p> <ul style="list-style-type: none"> 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 |

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| | <p>adjoining the public road,</p> <ul style="list-style-type: none"> 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. <p>The consent holder 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.</p> <p>The consent holder 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, before commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.</p> <p>2.304</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p> |
| 15. | <p>Finished surface levels</p> <p>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.</p> <p>2.305</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p> |
| 16. | <p>Traffic Management Plan</p> <p>Before the issue of any construction certificate for this development, the consent holder 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.</p> <p>A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN</p> <p>This plan shall include details of the following:</p> <ul style="list-style-type: none"> a. Proposed ingress and egress points for vehicles to and from the construction site; b. Proposed protection of pedestrians, adjacent to the constructions site; c. Proposed pedestrian management whilst vehicles are entering/exiting the construction site; d. Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period; e. Proposed traffic control measures such as advanced warning signs, |

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| | <p>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.</p> <p>f. Proposed route for transportation of bulk and excavation materials to and from the development site.</p> <p>The route for transportation to and from the development site of bulk construction and excavation materials shall be by the shortest practical route to the nearest "State Road", 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. The consent holder shall nominate the routes for approval by Council before commencement of any work on the site. All vehicles are to enter the on-street Works Zone adjacent to the site in a forward direction. U-turn and right-turn movements into the site, are generally not permitted.</p> <p>An Agreement to Council's satisfaction, signed by the consent holder/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site and for local roads along the transportation routes shall be lodged with Council before release of any Construction Certificate. All damage must be rectified upon completion of work.</p> <p>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.</p> <p>The approved Site, Pedestrian and Traffic Management Plan is to be implemented before the commencement of any works on the construction site.</p> <p>In addition, a TfNSW (formerly 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.</p> <p>Note: Approval by Council of a SPTMP may take up to six (6) months. Accordingly, it is recommended the application to Council be submitted well in advance of the need for a construction certificate.</p> <p>2.318</p> <p>Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.</p> |
| 17. | <p>Construction Site Management Plan</p> <p>Before the issue of a construction certificate, a Construction Site Management Plan (CSMP) must be prepared and approved by the certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> a. The location and materials for protective fencing and hoardings on the perimeter of the site; b. Provisions for public safety; c. Pedestrian and vehicular site access points and construction activity |

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| | <p>zones;</p> <ul style="list-style-type: none"> d. Details of construction traffic management including: <ul style="list-style-type: none"> i. Proposed truck movements to and from the site; ii. Estimated frequency of truck movements; and iii. Measures to ensure pedestrian safety near the site; iv. Details of bulk earthworks to be carried out; e. The location of site storage areas and sheds; f. The equipment used to carry out works; g. The location of a garbage container with a tight-fitting lid; h. Dust, noise and vibration control measures; i. The location of temporary toilets; j. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ul style="list-style-type: none"> i. AS 4970 – Protection of trees on development sites; ii. An applicable Development Control Plan; iii. An arborist's report approved as part of this consent A copy of the construction site management plan must be kept on-site at all times while work is being carried out. <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p> <p style="text-align: right;">2.401</p> |
| | <p>Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.</p> |
| 18. | <p>Work Vehicle Route</p> <p>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 consent holder shall nominate the route for approval by Council before commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by consent holder specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council before release of any construction certificate. All damage must be rectified before the issue of any occupation certificate.</p> <p style="text-align: right;">2.402</p> |
| | <p>Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.</p> |
| 19. | <p>Waste Management Plan</p> <p>Before the issue of a construction certificate, a Waste Management Plan (WMP) must be prepared and provided to the certifier. The plan must include the following matters:</p> <p>The plan must be prepared</p> <ul style="list-style-type: none"> a. in accordance with: <ul style="list-style-type: none"> i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and ii. a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and b. include the following information— <ul style="list-style-type: none"> i. the contact details of the person removing waste, |

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| | <ul style="list-style-type: none"> ii. an estimate of the type and quantity of waste, iii. whether waste is expected to be reused, recycled or sent to landfill, iv. the address of the disposal location for waste. <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p> <p style="text-align: right;">2.502</p> <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p> |
| 20. | <p>Protection of Environment</p> <p>The use and operation of the premises must be designed so as to not cause the emission of any odours that, by reason of its level, nature, character or quality is likely to be harmful to or interfere unreasonably with the comfort or repose of person who is outside the premises.</p> <p>There are to be no emissions or discharges from the premises which will give rise to an offence under the <i>Protection of the Environment Operations Act 1997</i> and Regulations.</p> <p>Emission control equipment must be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the construction certificate for the subject works.</p> <p>Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the certifier before the issue of any construction certificate.</p> <p style="text-align: right;">2.608</p> <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p> |
| 21. | <p>Landscaping Plan</p> <p>A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Bankstown DCP 2015 and must include the following features, notations and specifications:</p> <ul style="list-style-type: none"> a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features, b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes, c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), and d. One 75ltr (minimum) major canopy tree shall be planted within the front setback to the development, and e. Details of drainage and watering systems (if any). <p style="text-align: right;">2.701</p> <p>Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.</p> |
| 22. | <p>Council's Tree Management Order</p> |

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| | <p>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.</p> <p style="text-align: right;">2.801</p> <p>Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.</p> |
| 23. | Site Remediation |
| | <p>Prior to the issue of a construction certificate, the site is to be remediated in accordance with:</p> <ul style="list-style-type: none"> i. The approved Remedial Action Plan, prepared by GHD, titled Remediation Action Plan, 270-286 Horsley Road, Milperra, NSW, dated 4 May 2023, reference 12588881; ii. <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>; iii. The guidelines in force under the <i>Contamination Land Management Act 1997</i>. <p>The applicant must engage an appropriately qualified and experienced environmental consultant to supervise all aspects of site remediation and validation.</p> <p>Any variations to the approved remedial action plan must be submitted to and approved in writing by an NSW EPA Accredited Site Auditor and Council prior to the continuing of such work.</p> |
| | Condition reason: To protect the natural environment of the development site and adjoining lands. |
| 24. | Site Validation |
| | <p>Prior to issue of the construction certificate, the proponent must submit a detailed validation report to Council.</p> <p>The validation report must be prepared in accordance with:</p> <ul style="list-style-type: none"> i. 'Managing Land Contamination: Planning Guidelines (Department of Urban Affairs and Planning and NSW EPA, 1998); ii. Relevant EPA Guidelines, noting the guidelines for '<i>Consultants Reporting of Contaminated Land 2020</i> and iii. <i>National Environmental Protection (Assessment of Site Contamination) Measure 1999</i> (as amended 2013). <p>The validation report must be prepared or reviewed and approved by an appropriately qualified environmental consultant.</p> <p>The validation report must verify that the land is suitable for the proposed</p> |

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| | use(s), and that the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan, prepared by GHD, titled Remediation Action Plan, 270-286 Horsley Road, Milperra, NSW, dated 4 May 2023, reference 12588881. | | | | | | | | |
| | Condition reason: To protect the natural environment of the development site and adjoining lands. | | | | | | | | |
| 25. | <p>Environmental Management Plan</p> <p>Where the validation report identifies the need for the implementation of a long-term environmental management plan, the plan must be submitted to Council and the principal certifier. The ongoing environmental management plan must be prepared in accordance with:</p> <ul style="list-style-type: none">i. NSW Contaminated Land Planning Guidelines;ii. Relevant EPA endorsed guidelines; andiii. <i>National Environmental Protection (Assessment of Site Contamination) Measure 1999</i> (as amended 2013). <p>The long-term environmental management plan must be prepared or reviewed and approved by a suitably qualified environmental consultant.</p> <p>The long-term environmental management plan must be submitted to, and approved by, Council prior to the issue of an occupation certificate.</p> <p>The long-term environmental management plan must describe the nature and location of the contamination and prescribe how the contaminants will be managed/monitored and the responsible parties for this management/monitoring in the long-term.</p> <p>The long-term environmental management plan must specifically outline the construction details, and the requirements of management and monitoring of the containment cell to ensure it is maintained appropriately, its integrity remains intact, and to avoid migration of contamination. The ongoing environmental management plan must also include a contingency plan if the systems fail.</p> <p>Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.</p> | | | | | | | | |
| 26. | <p>Biodiversity Development Assessment Report</p> <p>Ecosystem credit retirement conditions</p> <ul style="list-style-type: none">(i) Prior to issue of a construction certificate the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.(ii) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of this condition must be provided to the consent authority prior to the issue of a construction certification. <p>Table 1 - Ecosystem credits required to be retired – like for like</p> <table><tr><td>Impacted plant community type</td><td>Number of ecosystem credits</td><td>IBRA subregion</td><td>Offset trading group</td></tr><tr><td></td><td></td><td></td><td></td></tr></table> | Impacted plant community type | Number of ecosystem credits | IBRA subregion | Offset trading group | | | | |
| Impacted plant community type | Number of ecosystem credits | IBRA subregion | Offset trading group | | | | | | |
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| PCT 3320 | 1 | Cumberland | Cumberland Plain Woodland in the Sydney Basin Bioregion |
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Species credit retirement conditions

- (i) Prior to the issue of a construction certificate the class and number of species credits in Table 2 must be retired to offset the residual biodiversity impacts of the development.
- (ii) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to the issue of a construction certificate.

Table 2 - Ecosystem credits required to be retired

| Impacted species credit species | Number of species credits | IBRA region |
|---------------------------------------|---------------------------|--------------|
| <i>Miniopterus australis</i> | 1 | Sydney Basin |
| <i>Miniopterus orianae oceanensis</i> | 1 | Sydney Basin |

Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.

BEFORE WORK COMMENCES

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| 27. | <p>Certifier details</p> <p>A construction certificate is required for the erection of a building in accordance with this Determination Notice.</p> <p>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 consent holder.</p> <p>The following requirements apply before the commencement of building work in accordance with this Determination Notice:</p> <ol style="list-style-type: none"> the principal certifier has, no later than two (2) days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier, the principal certifier has, no later than two (2) days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work, 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, the consent holder, if not carrying out the work as an owner-builder, has: <ol style="list-style-type: none"> appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential |

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| | <p>building work is involved, and</p> <p>ii. notified the principal certifier of the appointment, and</p> <p>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,</p> <p>e. the consent holder 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.</p> <p style="text-align: right;">3.202</p> |
| | Condition reason: To ensure compliance with the relevant New South Wales legislation. |
| 28. | <p>Temporary fence or hoarding</p> <p>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.</p> <p>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 before the commencement of building work/s.</p> <p style="text-align: right;">3.204</p> |
| | Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies. |
| 29. | <p>WC temporary toilet facilities on site</p> <p>Before the commencement of work, the consent holder 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.</p> <p style="text-align: right;">3.206</p> |
| | Condition reason: To ensure compliance with the relevant New South Wales legislation. |
| 30. | <p>Install Erosion control</p> <p>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).</p> <p style="text-align: right;">3.207</p> |
| | Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development. |
| 31. | <p>Soil and water management warning sign</p> <p>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.</p> <p style="text-align: right;">3.208</p> |
| | Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development. |
| 32. | <p>Sign with principal certifier details</p> <p>A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:</p> |

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| | <p>a. showing the name, address and telephone number of the principal certifier for the work, and</p> <p>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</p> <p>c. stating that unauthorised entry to the work site is prohibited.</p> <p>Any such sign is to be maintained while the building work or demolition work is being carried out and must be removed when the work has been completed.</p> <p>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.</p> <p style="text-align: right;">3.209.P</p> |
| | Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021. |
| 33. | <p>Assess for Hazardous Materials</p> <p>Before demolition, the entire site (including 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.</p> <p>All recommendations in the above-mentioned report are to be implemented and a clearance certificate issued by an appropriately qualified occupational hygienist is to be submitted to Council before the commencement of demolition works.</p> <p style="text-align: right;">3.601</p> |
| | Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies. |
| 34. | <p>Tree protection measures</p> <p>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.</p> <p style="text-align: right;">3.801.S</p> |
| | Condition reason: To protect the natural environment of the development site and adjoining lands. |

DURING WORK

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| | Condition |
| 35. | <p>Procedure for Critical Stage Inspections</p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.</p> <p style="text-align: right;">4.101.S</p> |
| | Condition reason: To ensure the development is built and remains consistent with approved plans and documentation. |
| 36. | <p>Works in accordance with Building Code of Australia (BCA)</p> <p>Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).</p> <p style="text-align: right;">4.201.P</p> |

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| | Condition reason: Prescribed condition - EP&A Regulation clause 98(1)(a). |
| 37. | <p>Hours of Work</p> <p>Site work must only be carried out between the following times –</p> <ol style="list-style-type: none"> 7.00 am and 5.00 pm on Monday to Saturday. No construction is to be carried out at any time on a Sunday or a public holiday. <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>4.204.S</p> |
| | Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites. |
| 38. | <p>Noise and Vibration</p> <p>While site work is being carried out, noise generated from the site must be controlled in accordance with the requirements of the approved documentation.</p> <p>Where no noise and vibration management plan is approved under this consent, the certifier is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the site work is being carried out.</p> <p>4.205.S</p> |
| | Condition reason: To ensure the development is built and remains consistent with approved plans and documentation. |
| 39. | <p>Noise and Vibration</p> <p>The site work must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).</p> |
| | Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites. |
| 40. | <p>Surveys by a Registered Surveyor</p> <p>While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:</p> <ol style="list-style-type: none"> All footings / foundations in relation to the site boundaries and any registered and proposed easements At other stages of construction – any marks that are required by the principal certifier. <p>4.206.S</p> |
| | Condition reason: To ensure the development is built and remains consistent with approved plans and documentation. |
| 41. | <p>Civil and Hydraulic Engineering Works</p> <p>All civil and/or 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.</p> |

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| | 4.301 Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy. |
| 42. | Responsibility for Changes to Public Infrastructure While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority. 4.307.S Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development. |
| 43. | Excavated Safely All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the consent holder must, at their own expense: <ol style="list-style-type: none"> Protect and support the building, structure or work from possible damage from the excavation, and Where necessary, underpin the building, structure or work to prevent any such damage. This consent condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land. 4.308 Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code. |
| 44. | Shoring and Adequacy of Adjoining Properties 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 consent holder must, at their own expense — <ol style="list-style-type: none"> Protect and support the building, structure or work from possible damage from the excavation, and Where necessary, underpin the building, structure or work to prevent any such damage. This condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. 4.309.P Condition reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021. |
| 45. | Retaining walls |

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| | <p>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. Should it be required, separate approval must be obtained for retaining walls.</p> <p style="text-align: right;">4.310</p> |
| | <p>Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies.</p> |
| 46. | <p>Waste management</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> a. all waste management must be undertaken in accordance with the waste management plan, and b. upon disposal of waste, records of the disposal must be compiled and provided to , detailing the following: <ol style="list-style-type: none"> i. The contact details of the person(s) who removed the waste ii. The waste carrier vehicle registration iii. The date and time of waste collection iv. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill v. The address of the disposal location(s) where the waste was taken vi. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and council.</p> <p style="text-align: right;">4.502.S</p> |
| | <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p> |
| 47. | <p>Comply with Waste Management Plan</p> <p>The requirements of the submitted Waste Management Plan shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:</p> <ol style="list-style-type: none"> a. The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the <i>Protection of Environment Operations Act 1997</i>; and 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 <i>Protection of Environment Operations Act 1997</i>; and 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; and d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it; and 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 |

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| | <p>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; and</p> <p>f. All materials and resources that are to be stored on site during construction works are contained on the site; and</p> <p>g. 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</p> <p>h. 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.</p> <p style="text-align: right;">4.503</p> |
| | <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p> |
| 48. | <p>Waste Classification Report</p> <p>All soils and material, liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> and related guidelines, the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.</p> <p>The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the principal certifier before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an occupation certificate.</p> <p>All waste material must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an occupation certificate.</p> <p>All waste must be transported by a contractor licensed to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.</p> <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p> |
| 49. | <p>No Stockpiling</p> <p>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.</p> <p style="text-align: right;">4.605</p> <p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p> |
| 50. | <p>Implementation of the Site Management Plans</p> <p>While site work is being carried out:</p> <p>a. the measures required by the construction site management plan (where approved) and the erosion and sediment control plan must</p> |

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| | <p>be implemented at all times, and</p> <p>b. a copy of these plans must be kept on site at all times and made available to council officers upon request.</p> <p style="text-align: right;">4.701.S</p> |
| | <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p> |
| 51. | <p>Tree protection during work</p> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ul style="list-style-type: none"> a. the construction site management plan (where approved) under this consent, b. the relevant requirements of AS 4970 Protection of trees on development sites, c. Council's relevant development control plan (in force as at the date of determination of this consent) and d)any arborist's report approved under this consent. <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones</p> <p style="text-align: right;">4.807.S</p> <p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p> |
| 52. | <p>Tree protection</p> <p>All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS 4373 – 'Pruning of amenity trees' and Australian Standard AS 4970 – 'Protection of trees on development sites'. Site specific conditions relating to tree protection shall take precedence over this requirement.</p> <p style="text-align: right;">4.806</p> <p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p> |
| 53. | <p>Threatening of trees</p> <p>If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.</p> <p style="text-align: right;">4.810</p> <p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p> |
| 54. | <p>Discovery of relics and Aboriginal objects</p> <p>While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:</p> <ul style="list-style-type: none"> a. the work in the area of the discovery must cease immediately; b. the following must be notified <ul style="list-style-type: none"> i. for a relic – the Heritage Council; or ii. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85. <p>Site work may recommence at a time confirmed in writing by:</p> <ul style="list-style-type: none"> a. for a relic – the Heritage Council; or |

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| | <p>b. for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85.</p> <p>In this condition: “relic” means any deposit, artefact, object or material evidence that:</p> <ul style="list-style-type: none"> • relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and • is of State or local heritage significance; and <p style="text-align: right;">4.901.S</p> <p>Condition reason: To ensure the protection of objects of potential significance during works.</p> |
| 55. | <p>Validation Report</p> <p>The decommissioning and removal of the underground petroleum storage system must be supervised by a duly qualified person, and undertaken in accordance with, but not limited to:</p> <ol style="list-style-type: none"> <i>Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 ;</i> AS 4976-2008, ‘The removal and disposal of underground petroleum storage tanks’; and UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS (NSW EPA, 2010) <p>A validation report must be prepared by a duly qualified person in accordance with the <i>Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019</i>. The validation report must be provided to Council no later than 60 days after the underground petroleum storage systems removal and remediation and evidence of this being completed prior to the issue of an Occupation Certificate.</p> <p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p> |
| 56. | <p>Odour Generation / Unexpected Finds</p> <p>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.</p> <p>An NSW EPA Accredited Site Auditor is to be 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.</p> <p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p> |
| 57. | <p>Protection of the Environment</p> <p>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 <i>Protection of the Environment Operations Act 1997</i> and</p> |

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| | Regulations. |
| | Condition reason: To protect the natural environment of the development site and adjoining lands. |
| 58. | Protection of Amenity |
| | 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, wastewater, waste products, grit, oil or other harmful products. |
| | Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites. |
| 59. | Water Discharge |
| | All excavations must be kept free from the accumulation of water. Prior approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility. |

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

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| 60. | Occupation certificate |
| | The occupation or use of the premise must not commence unless an occupation certificate has been issued. |
| | 5.201 |
| | Condition reason: To ensure compliance with the relevant New South Wales legislation. |
| 61. | Preservation of Survey Marks |
| | Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that: |
| | <ul style="list-style-type: none"> a. no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or b. any survey mark(s) that were damaged, destroyed, obliterated or defaced have been re-established in accordance with the Surveyor General's Direction No. 11 – Preservation of Survey Infrastructure. |
| | 5.204.S |
| | Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development. |
| 62. | Completion of Public Utility Services |
| | Before the issue of the relevant occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier. |
| | 5.207.S |
| | Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development. |
| 63. | Work Permit Compliance Required |
| | An occupation certificate must not be issued until all conditions relating to |

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| | <p>demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).</p> <p style="text-align: right;">5.301</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p> |
| 64. | <p>Repair of Infrastructure</p> <p>Before the issue of an occupation certificate:</p> <ul style="list-style-type: none"> a. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of council, and at no cost to council, or b. if the works in (a) are not carried out to council's satisfaction, council may carry out the works required and the costs of any such works must be paid as directed by council and in the first instance will be paid using the security deposit required to be paid under this consent. <p style="text-align: right;">5.302.S</p> <p>Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.</p> |
| 65. | <p>Removal of Waste Upon Completion</p> <p>Before the issue of an occupation certificate:</p> <ul style="list-style-type: none"> a. all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the waste management plan, and b. written evidence of the waste removal must be provided to the satisfaction of the principal certifier <p style="text-align: right;">5.503.S</p> <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p> |
| 66. | <p>Completion of Landscape and Tree Works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p style="text-align: right;">5.701.S</p> <p>Condition reason: To protect the natural environment of the development site and adjoining lands and to ensure the development is built and remains consistent with approved plans and documentation.</p> |
| 67. | <p>Site Audit Statement</p> <p>A Site Audit Statement is to be obtained from an NSW EPA Accredited Site Auditor. The Site Audit Statement must confirm that the site has been remediated in accordance with the approved remedial action plan and that the site is suitable for the proposed use. Conditions on the site audit statement must form part of the consent.</p> <p>Where the site audit statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and approved by Council prior to the issue of a Site Audit Statement.</p> |

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| | Condition reason: To protect the natural environment of the development site and adjoining lands and to ensure the development is built and remains consistent with approved plans and documentation. |
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General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means Canterbury Bankstown Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Canterbury Bankstown Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

the collection of stormwater,
the reuse of stormwater,
the detention of stormwater,
the controlled release of stormwater, and
connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney South Planning Panel.

-END-

ITEM 3 **Planning Proposal at 81-95 Boronia Road, Greenacre (RZ-1/2019)**

FILE **RZ-1/2019 – Darani / Bankstown**

APPLICANT **GPV Investments Pty Ltd**

OWNERS **GPV Investments Pty Ltd**

AUTHOR **Planning**

PURPOSE AND BACKGROUND

The purpose of this report is to seek the Local Planning Panel's (the Panel) advice on proposed changes to the *Canterbury Bankstown Local Environmental Plan 2023* (CBLEP 2023).

Council is in receipt of an application to prepare a planning proposal for the site at 81-95 Boronia Road, Greenacre. The planning proposal seeks the following:

- Rezone the R2 – Low Density Residential to R3 – Medium Density Residential
- Increase the allowable building height to a maximum of 10.5m
- Increase the FSR from 0.5:1 to 0.75:1, and
- Decrease the minimum lot size from 450m² to 100m²

The concept development scheme submitted by the Applicant shows 70 townhouses across the 1.1ha site, consisting of 3-4 bedrooms with a maximum building height of three storeys. The concept plan includes a shared entry/exit vehicle access point on the western side of the site to a basement with approximately 150 vehicles.

The application was previously reported to the Panel on 1 August 2022 and the Council's report from this meeting and the Panel's Minutes can be found in Attachment A. The Panel deferred its decision to allow the applicant to provide further information and investigations in relation to the following:

- Resolution of flooding issues
- Traffic modelling
- The extent of existing and proposed future affordable housing on the site, and
- Waste removal arrangement for the proposed development.

Following the meeting, Council contacted the applicant via phone and letter in January 2023 and August 2023 requesting an update on their intent to lodge a revised scheme that addressed the Panel's requirements and the issues raised in Council's report. Council has not received any further updates from the applicant regarding this planning proposal. A copy of Council's letter sent to the applicant in August 2023 can be found in Attachment B.

As the applicant has not provided the information and further clarifications requested by the Panel and Council, the proposal continues to lack in strategic and site-specific merit and therefore should not proceed to Gateway determination.

ISSUE

Council's detailed assessment in Attachment A indicates the applicant's proposal in its current form does not adequately demonstrate strategic and site-specific merit to proceed to a Gateway determination. Since the Panel previously considered this matter in August 2022, the Council's CB LEP 2023 has been Gazetted and has come into effect and resulted in new R3 Medium Density Residential and R4 High Density Residential zoned land being delivered within the Greenacre Town Centre which will support the delivery of new housing close to transport, retail and services. The strategic merit to proceed with this planning proposal has diminished as a consequence of the changes in zoning in Greenacre Town Centre.

The planning proposal is considered inconsistent with key strategic policies and will allow for development that will result in unacceptable bulk and scale that is out of character with the surrounding locality, as well as unresolved traffic and flooding impacts. The proposed R3 Medium Density Residential zoning, which would enable approximately 70 dwellings to be delivered on the site within an established low density residential area, would be in an out of centre location.

Should Council decide to proceed with the planning proposal, it would set an undesirable precedent that would be contrary to Council's adopted strategies that set the planning policy direction for future development in the Local Government Area (LGA).

RECOMMENDATION That -

1. The Canterbury Bankstown Local Planning Panel note detailed assessment of the planning proposal undertaken by Council Officers for the applicant initiated planning proposal for the site at 81-95 Boronia Road, Greenacre.
2. The Panel endorse the recommendations of this report that the planning proposal does not proceed to a Gateway determination.

ATTACHMENTS

- A. Council – Canterbury Bankstown Local Planning Panel Report and Minutes – 1 August 2022
- B. Council – Letter to applicant requesting update – 2 August 2023

POLICY IMPACT

The planning proposal in its current form is considered inconsistent with Council's adopted land use and planning policies including the Canterbury Bankstown Local Strategic Planning Statement (LSPS), *Connective City 2036*, CBLEP 2023 and the Canterbury Bankstown Housing Strategy.

Should Council decide to proceed with the planning proposal, it would set an undesirable precedent that would be contrary to Council's adopted strategies that set the planning policy direction for future development in the LGA.

FINANCIAL IMPACT

The applicant's Letter of Offer dated 27 April 2022 proposes a monetary contribution of \$300,000 or to undertake works in kind to this value or embellishment of open space and recreation facilities within walking distance of the site.

Council notes that the work schedule of the recently adopted Canterbury Bankstown Local Infrastructure Contributions Plan 2022 identifies new and upgraded infrastructure for Greenacre Local Centre including a new community facility, a new splash park and water play facility (delivered), public domain improvements, road network and traffic improvements that this funding could be contributed toward.

COMMUNITY IMPACT

Although, the planning proposal would contribute towards housing supply, Council's assessment has found that the proposed location is not appropriate for medium density residential dwelling at the scale and density proposed by the applicant. Council's assessment findings indicate that the proposal would result in poor interface and residential amenity for future residents on the site and the adjoining residents as a result of the proposed scale and density, insufficient open space and waste collection provisions.

Despite the planning proposal intending to create housing choice and diversity via providing 25% of the Gross Floor Area of the future development as an affordable housing, Council's assessment considers that it is unable to establish a net community benefit in terms of a potential loss of the existing housing on the site. While the applicant's offer includes 5% affordable housing dedicated to Council in perpetuity, the remaining 20% affordable housing could be sold off to the private market after 15 years under the provisions of Chapter 2 'Affordable housing' in the State Environmental Planning Policy (Housing) 2021.

DETAILED INFORMATION

1. SITE AND LOCALITY DESCRIPTION

The subject site (site) at 81-95 Boronia Road, Greenacre comprises the following properties as shown in Figure 1.

| Property Address | Property Description | Current Zone | Site Area |
|------------------|---|---------------------------------|-----------------------------------|
| 81 Boronia Road | Lot Y DP 418826 | Zone R2 Low Density Residential | 11,472m ² (1.147ha) |
| 83 Boronia Road | Lot x, DP 418826; Lot B DP 320337; Lot 1 DP 1074206 | | |
| 87 Boronia Road | Lot 1, DP 105002 | | |
| 95 Boronia Road | Lot 2, DP 315822 | | |

The existing development on the site includes single storey former retirement village consisting of thirty nine (39) townhouses, now occupied as ordinary residential housing, and five detached residential dwellings. Existing vehicular access to the site is via six separate driveways on Boronia Road. The site has a frontage of approximately 113m to Boronia Road and a depth of 100m.

The site has a 4.5m fall from the street to the rear of the site. The stormwater generally drains to the rear of the site, with stormwater lines to the rear boundary. The rear portion of the site is located within a flood planning area. An aerial view is provided below in Figure 1.



Figure 1. Aerial view of subject site.

The site is located approximately 600m to the west of Waterloo Road which is the main street of the Greenacre Local Centre. The existing character of the area is predominantly single storey detached residential dwellings with some two storey duplexes and townhouses. A site context map is provided below in Figure 2.

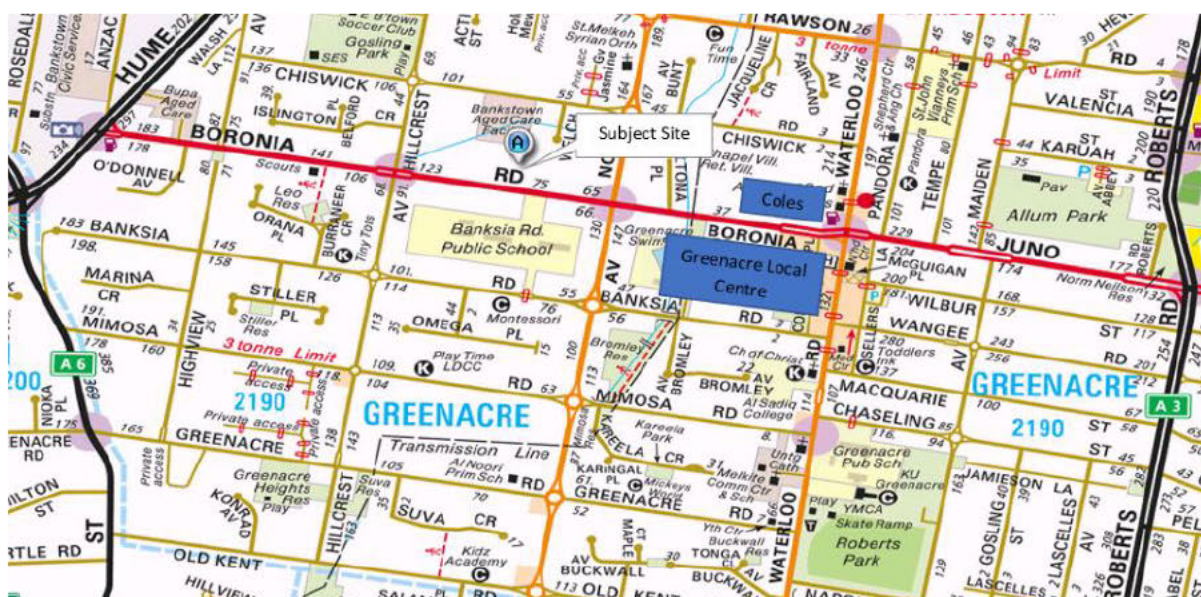


Figure 2. Site context map.

2. PROPOSAL

Council received an application to amend the *Canterbury Bankstown Local Environmental Plan 2023*¹ to facilitate medium density residential accommodation. The extent of the amendments is outlined below in Table 2.

Table 1. Summary of proposed LEP amendments.

| Proposed LEP Amendment | Current controls | Proposed controls |
|------------------------|------------------------------|---------------------------------|
| Land Zoning | R2 – Low Density Residential | R3 – Medium Density Residential |
| Floor Space Ratio | 0.5:1 | 0.75:1 |
| Height of Buildings | 9m | 10.5m |
| Minimum Lot Size | 450m ² | 100m ² |

The application comprises 70 townhouses and 150 parking spaces located in a basement accessible via a single entry/exit off Boronia Road and an at-grade driveway with single entry and exit points to Boronia Road. 20 visitor car parking spaces and waste collection services are proposed on the ground floor, however a loading bay for waste collection is also shown in the basement. Communal open space of approximately 485m² is proposed in the centre of the site.

The proposed concept plan and building massing is provided below in Figures 3 and 4.

¹ The previous planning proposal lodged in 2021 and the *Canterbury Bankstown Local Environmental Plan 2023* (CBLEP 2023) had yet been gazetted. CBLEP 2023 was gazetted in June 2023. The documentation provided by the applicant and Council's previous assessment will refer to the Draft CBLEP and the *Bankstown Local Environmental Plan 2015*.



Figure 3. Applicant's proposed Concept Plan.



Figure 4. Applicant's building massing diagram

The application is accompanied by a Letter of Offer to enter into a Planning Agreement including the following:

“...By way of an offer to enter into a Voluntary Planning Agreement, 5% of the gross floor area will be dedicated to Council for the purpose of providing affordable housing. An additional minimum 20% of the gross floor area will be made available as affordable rental housing for 15 years from the date of issue of the occupation certificate:

- (i) the dwellings proposed to be used for the purposes of affordable rental housing will be used for the purposes of affordable housing, and*
- (ii) all accommodation that is used for affordable rental housing will be managed by a registered community housing provider.*

The proponent will also either undertake works in kind or contribute \$300,000 towards the embellishment of open space and recreation facilities within walking distance of the site.”

Council recommends not to proceed with the planning proposal to a Gateway determination, therefore Council has not progressed with the preparation of a draft Planning Agreement.

3. ASSESSMENT

As discussed in Section 4 below and detailed in Council’s previous assessment of the Applicant’s planning proposal provided in Attachment A, Council’s assessment of the proposed amendments to the CBLEP 2023 indicates the application does not demonstrate strategic merit as it will result in a development that does not provide a satisfactory level of residential amenity, an inconsistent building character and will have unacceptable impacts in relation to flooding and traffic. The proposed development will also result in an ‘out of centre’ development going against the strategic vision for the suburb of Greenacre.

4.1 Consistency with Strategic Planning Framework

Council’s assessment identifies that although the application would contribute towards housing supply and affordable housing for the city, it does not meet the strategic policy requirements for housing to be in the ‘right location’ and be of a ‘good design’ set out in the Greater Sydney Region Plan – A Metropolis of Three Cities. Council’s previous assessment of the planning proposal provides a detailed site-specific merit assessment that confirms the relevant objectives/priorities of the following policies are not satisfactorily met by the application.

- Greater Sydney Region Plan – A Metropolis of Three Cities.
- South District Plan.
- Local Strategic Planning Statement – ‘Connective City 2036’.
- Canterbury Bankstown Council Housing Strategy.

Refer to the Council Officer’s assessment report provided at Attachment A for a detailed assessment of these strategic policies.

4.1.4 Affordable Housing Strategy

On 23 June 2020, Council adopted the Canterbury Bankstown Affordable Housing Strategy.

The objectives of the Affordable Housing Strategy are to increase the provision of affordable rental housing and to reduce the level of housing stress experienced by residents across the City of Canterbury Bankstown.

The Affordable Housing Strategy and Council's Planning Agreement Policy requires a 5% affordable housing contribution for planning proposals resulting in uplift of more than 1,000m² of residential floorspace, unless otherwise agreed with Council.

Although the application includes an offer of 25% of the GFA of the development is affordable housing, of which 5% or around four dwellings would be dedicated to Council in perpetuity. Council's peer review of the applicant's Social Impact Assessment confirms that the planning proposal at this stage does not consider the loss of any existing affordable housing on the site and therefore the proposal may result in an overall net loss in permanent affordable housing for Greenacre.

4.2 Urban Design Considerations

As part of the detailed site-specific merit assessment of the planning proposal, Council commissioned an independent urban design specialist to undertake a peer review of the applicant's concept design report. The full assessment and results of this review can be found in Attachment A. In summary, the review found:

- The design resulted in unreasonable density and height
- Confirmed that the proposed density is out of character with surrounding development, resulting in a significantly higher density than adjoining multi-dwelling housing
- Recommended a maximum building height of 9.5m with only a certain number of dwellings in the centre of the site to be allowed up to 10.5m to account for the landform. It did not support a building height of 10.5m across the entire site, and
- A minimum lot size of 100m² would disrupt the established rhythm of the low density character of Boronia Road and result in a compressed built form. The lower lot size would also encourage higher density beyond that appropriate for the locality.

This peer review has assisted Council with the assessment of the planning proposal to conclude that the planning proposal in its current form is not supported to progress given the opportunities for the applicant to make changes to address the issues raised in the urban design peer review.

4.4 Traffic and Transport

The applicant provided a Traffic Impact Assessment (TIA) for Council's consideration. In August 2021, Council commissioned an independent traffic specialist to undertake a peer review of the applicant's TIA. The recommendations of the peer review are summarised as follows:

- Justification needs to be provided for the assumptions in the TIA makes for the proposed traffic generation, traffic distribution, SIDRA modelling

- Early consultation with the Transport of NSW (TfNSW) is required in relation to the proposed narrowing of lanes along the Boronia Road frontage of the site, other proposed changes and the impact this may have on the functioning of the State Road and Boronia Road Public School
- Use of 'Affordable Housing' parking rates for the entirety of the development is unsuitable as the proposal does not constitute 100% affordable housing only on the site
- In order to remove the need for large trucks within the constrained basement car park, above-ground loading and waste collection areas to be considered
- Parking spaces for cars, bicycles, visitors, Person with Disabilities (PWD) to be consistent with the requirements of the Bankstown DCP 2015 and need to remove any inconsistencies in the report. Bicycle parking to be relocated from basement to a safe, convenient and public-facing space in line with passive relocated surveillance CPTED principles, and
- Swept path analysis to provide details of the largest vehicles that can access the site and the basement.

The matters raised in the peer review would require resolution by the applicant should the planning proposal proceed to a Gateway determination.

In June 2022, Council referred the planning proposal to TfNSW to seek its preliminary advice, consistent with the requirements of the Department's LEP Making Guideline. On 8 July 2022, TfNSW advised that the findings and recommendations in Council's peer review of the Traffic Impact Assessment are supported. Full details of the TfNSW's assessment is held in Attachment A.

4.5 Flooding

Council's review of the applicant's flooding assessment confirm that the proposal does not provide an acceptable assessment of flood impacts and flood risks consistent with the requirements of the Flood Risk Management Guide LU01 (DPE, 2022) (FIRA). The proposal does not consider potential risks associated with flooding, proportionate to the intensification being proposed on the site, except for a recommendation that the dwellings are to be elevated above the flood level. Further consideration of the flooding implications from enclosed spaces which may cause blockage and subsequent obstruction to flooding would be required.

The proposal does not provide information on whether there is a change in flood level/depth, flood velocities and flood hazard for multiple scenarios including but not limited to 1% AEP (100 year ARI) and Probable Maximum Flood (PMF) flooding. Additionally, the proposal has not included a management plan for evacuation in the event of a flood.

5. NEXT STEPS

Council has assessed this planning proposal against the justification matters outlined in the Department's LEP Making Guideline. Council's assessment of the proposal confirms that the planning proposal does not adequately demonstrate a clear strategic

and site specific merit to proceed to a Gateway determination. Following the Panel's consideration of this matter and issuing of advice, the planning proposal will be reported to Council to seek a resolution for the matter to not proceed to a Gateway determination.

CITY OF CANTERBURY BANKSTOWN**MINUTES OF THE****CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING****HELD ON MONDAY 1 AUGUST 2022**

PANEL MEMBERS**PRESENT:**

Mr Anthony Hudson - Chairperson
Mr Stephen Kerr - Expert Member
Mr Richard Thorp - Expert Member
Ms Inaam Tabbaa - Community Representative Bankstown

STAFF IN**ATTENDANCE:**

Ms Maryann Haylock (Local Planning Panel Administration Officer)
Mr Camille Lattouf (Manager City Strategy and Design Spatial Planning, not present for the closed session)
Ms Robyn Winn (Coordinator Governance and Property Services)
Mr Patrick Lebon (Coordinator Strategic Assessment Spatial Planning, not present for the closed session)
Ms Amita Maharjan (Strategic Planner Spatial Planning, not present for the closed session)

THE CHAIRPERSON DECLARED THE MEETING OPEN AT 6.01 PM.**INTRODUCTION**

The Chairperson welcomed all those present and explained the function of the Canterbury Bankstown Local Planning Panel is to consider the report and the recommendation from the Council staff and any public submissions and provide advice to Council on the planning proposal.

APOLOGIES

There were no apologies received.

DECLARATIONS OF INTEREST

The Chairperson advised that all Panel Members had submitted written Declarations of Interest returns prior to the meeting.

The Chairperson also asked the Panel if any member needed to declare a conflict of interest in any of the items on the agenda. There were no declarations of interest.

CBLPP Determination**CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

THAT the minutes of the Canterbury Bankstown Local Planning Panel Meeting held on **Monday 6 June 2022** be confirmed.

This is page One of the Minutes of the CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING
held on MONDAY 1 AUGUST 2022 Confirmed on FRIDAY 5 AUGUST 2022

DECISION**1 81-95 BORONIA ROAD, GREENACRE: APPLICATION TO AMEND THE BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2015: 81-95 BORONIA ROAD, GREENACRE****Site Visit**

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Written Submission

- Written submissions were received for this matter from Mr Graeme Horsnell, Mr & Mrs Ayoub and Kevin C T. Council also received three phone calls from residents objecting to the proposal.

Public Addresses

The following people addressed the meeting in relation to this item:

- Mr Craig Chung - Strategic Legal Consultant (representing applicant)
- Two speakers gave prior notice to speak but neither of them were present in the public meeting.

Panel Assessment

Ms Inaam Tabbaa was the Community Panel Member present for the deliberation and voting for this matter.

The Panel was advised that the applicants had met with the Council earlier in the day to discuss changes to the Planning Proposal.

As a result of these discussions the applicant made a formal request to the Panel that the Panel defer consideration of the Planning Proposal to enable the applicant to make amendments to the Planning Proposal and discuss these amendments with the Council.

The applicant suggested that proposed amendments would be aimed at addressing concerns raised in the report before the Panel.

The Panel agrees to the matter being deferred.

In addition the Panel recognises that this is an important site that would be able to contribute to new housing, including affordable housing. The Panel agrees that the site is suitable for a medium density housing development.

The Panel also recognises that further work is required to resolve a final agreeable form of development. This work should include:

- a resolution of flooding issues
- b traffic modelling
- c the extent of existing and proposed future affordable housing on the site
- d waste removal arrangements for proposed development.

CBLPP Decision

THAT the Panel's consideration of the Planning Proposal to amend the Bankstown Local Environmental Plan 2015 for 81-95 Boronia Road, Greenacre be deferred.

Vote: 4 – 0 in favour

The meeting closed at 6:07pm

This is page Two of the Minutes of the CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING held on MONDAY 1 AUGUST 2022 Confirmed on FRIDAY 5 AUGUST 2022

Canterbury Bankstown Local Planning Panel - 01 August 2022

| | |
|------------------|--|
| ITEM 1 | Application to Amend the Bankstown Local Environmental Plan 2015: 81-95 Boronia Road, Greenacre |
| APPLICANT | dmps Town Planning & Property Development Services |
| OWNERS | GPV Investments Pty Ltd |
| AUTHOR | Planning |

PURPOSE AND BACKGROUND

The purpose of this report is to seek the Canterbury Bankstown Local Planning Panel's advice on the proposed changes to the Bankstown Local Environmental Plan 2015 (BLEP 2015).

Council is in receipt of an application to prepare a Planning Proposal (Attachment A) to amend the BLEP 2015 for the site at 81-95 Boronia Road, Greenacre to facilitate multi-dwelling housing on the site. The changes proposed to the LEP are:

- Rezone the site from Zone R2 Low Density Residential to Zone R3 Medium Density Residential
- Increase the maximum building height from 9m to 10.5m, and
- Increase the Floor Space Ratio (FSR) from 0.5:1 to 0.75:1.

The concept development scheme submitted with the application shows 70 townhouses across the 1.1ha site, consisting of 3-4 bedrooms with a maximum building height of three storeys. The concept plan includes a shared entry/exit vehicle access point on the western side of the site to a basement with approximately 150 vehicles.

The application will facilitate the redevelopment of the site for approximately 70 new townhouse development. The site is currently occupied by single storey former aged care facility containing 39 units and five detached residential dwellings.

Following a receipt of an application (now superseded) in March 2021 for a maximum FSR of 1.35:1, Council commissioned independent specialists to undertake peer reviews of the applicant's urban design concept plans, the Traffic Impact Assessment report and the Social Impact Assessment report. The peer reviews are included in Attachments T-W.

During the assessment process and in response to concerns raised by Council in relation not the inappropriateness of the proposed outcome that would be generated with an FSR of 1.35:1 being applied to the site, further consultation occurred with the applicant. The following provides an outline of engagement with the applicant to date:

- On 11 November 2021, council advised that the proposal would need to provide appropriate justification to establish strategic and site specific merit. The applicant made a verbal offer to provide 50% affordable housing which Council advised to confirm in writing. The applicant was also advised that a contribution towards a district level community or recreation facility will also be required in lieu of the need for open space that would be created by the proposal. At the meeting, Council provided details of the findings of the peer reviews and the preferred dwelling density for the site of around 45 to 52 dwellings.
- On 21 November 2021, a revised draft concept was discussed which presented an FSR of 0.9:1. Council's advice was to revise the concept to be consistent with the Urban Design Peer Review to address amenity issues including open space requirements and affordable housing contribution.
- On 15 March 2022, the applicant presented an alternative scheme containing 26 dwellings with a minimum lot size of 350m². This scheme however did not contain provision for affordable housing. Council advised at the meeting that the scheme was able to address most of the matters raised in the Urban Design Peer Review and this concept would also need to be consistent with Council's Affordable Housing Policy. On 23 March 2022, Council also confirmed in writing matters which required further justification and compliance to establish strategic and site specific merit.

In May 2022, a further revised Planning Proposal was submitted for Council's consideration which was similar to the original application made in March 2021. This option, although requested an FSR higher than the recommendations of the Urban Design Peer Review (Attachment T) and offered a reduced level of communal open space, it considered other recommendations relating to site access, circulation and delineation of private and public spaces. The revised Planning Proposal is supported with a letter of offer dated April 2022.

In June 2022, Council referred the Planning Proposal to Transport for NSW (TfNSW) to seek its preliminary advice, consistent with the requirements of the Department of Planning and Environment's (DPE) revised Planning Proposal Guidelines of 15 December 2021 to ensure infrastructure related matters are addressed in a timely manner.

Council's detailed assessment of the final proposal (Attachment S) confirms that the proposal lacks strategic and site specific merit to proceed to Gateway Determination.

ISSUE

Council's detailed assessment indicates that the applicant's proposal in its current form does not adequately demonstrate strategic and site-specific merit to proceed to a Gateway Determination.

The Planning Proposal is considered inconsistent with Council's adopted land use and planning policies, namely the Canterbury Bankstown Local Strategic Planning Statement (LSPS) '*Connective City 2036*', the Bankstown Local Environmental Plan (LEP) 2015, the Draft Canterbury Bankstown LEP 2021, the Canterbury Bankstown Housing Strategy 2020, and the Canterbury Bankstown Affordable Housing Strategy 2020.

The Planning Proposal is also considered inconsistent with the intent of the State Government's Greater Sydney Region Plan and South District Plan which requires proposed dwelling intensification to occur at the 'right location' and to be of 'good design'.

Further, the Planning Proposal is considered inconsistent with the Local Planning Directions (former Ministerial Directions) 4.1 Flooding, and 6.1 Residential Zones and the State Environmental Planning Policies, namely SEPP (Housing) 2021 and SEPP (Transport and Infrastructure SEPP) 2021.

In addition to the above inconsistencies, there are a number of detailed design matters that are yet to be satisfactorily resolved to ensure that the proposal provides a satisfactory level of residential amenity and that the proposed bulk and scale is complementary to the existing character of the area. Council's assessment of the Planning Proposal indicates that the proposed density of 61 dwellings/ha (70 dwellings with an FSR of 0.75:1 and a maximum building height of 10.5m) is not supported due to the adverse amenity impacts the proposal would cause in terms of inappropriate bulk and scale resulting into overlooking and overshadowing of the adjacent properties.

Council's preliminary consultation with TfNSW confirmed that it did not support the applicant's SIDRA Modelling and the stated existing and the proposed traffic conditions along Boronia Road. Council's detailed assessment confirms that the Planning Proposal in its current form does not satisfy general requirements of TfNSW to ensure effective and ongoing operation and function of Boronia Road.

Furthermore, the Planning Proposal is yet to establish a net affordable housing gain for the area as the Planning Proposal does not consider potential loss of the existing former retirement house on the site. Matters relating to adequate communal open space, waste collection and acoustic privacy have not been addressed adequately and will result in poor urban design outcomes.

In summary, Council's assessment of the proposal indicates that the proposed scale and density, coupled with the unresolved matters relating to traffic and transport and affordable housing, solar access, insufficient open space and waste collection provisions would result into poor residential amenity for future residents on the site and the adjoining residents. In light of the above, the proposal does not demonstrate strategic and site specific merit that would support the proposal progressing to Gateway Determination in its current form.

RECOMMENDATION That -

1. The Canterbury Bankstown Local Planning Panel (the Panel) note the applicant initiated Planning Proposal for the site at 81-95 Boronia Road, Greenacre and the detailed assessment of the Planning Proposal undertaken by Council Officers.
2. The Panel endorse the recommendations of this report that the Planning Proposal does not proceed to Gateway Determination.

ATTACHMENTS

Click here for [Attachments A-E](#) [Attachment F-Q](#)
[Attachment R-X](#)

- A. Applicant - Planning Proposal, dmpps, May 2022

- B. Applicant - Planning Agreement Offer, dmps, April 2022
- C. Applicant - Concept Design Report, Tony Owen, March 2022
- D. Applicant - Landscape Planning Proposal Concept, Tony Owen, April 2022
- E. Applicant - Social Impact Assessment, Hill PDA, April 2022
- F. Applicant - Economic Impact Assessment, Hill PDA, Feb 2021
- G. Applicant - Traffic Impact Assessment, ML Traffic Engineer, April 2022
- H. Applicant - Site Specific Development Control Plan, May 2022
- I. Applicant - Services Infrastructure Report, Glen Haig & Partners, Feb 2021
- J. Applicant - Hydraulic, Stormwater Concept Plans, Glen Haig & Partners, Feb 2021
- K. Applicant - Hydraulic, Stormwater Management Report, Glen Haig & Partners, May 2022
- L. Applicant - Hydraulic, Stormwater Drainage Flow Assessment Report, May 2022
- M. Applicant - Hydraulic, Post Development Flood Depth, May 2022
- N. Applicant - Hydraulic, Pre Development Flood Depth, May 2022
- O. Applicant - Arboricultural Impact Assessment, Seasoned Tree Consulting, Feb 2021
- P. Applicant - Geotechnical Investigation, SMEC Testing Services, Oct
- Q. Applicant - Survey Plan, Bee & Lethbridge, Oct 2010
- R. Applicant Proposed LEP Maps- Land Zoning Map- Floor Space ratio Map- Height of Buildings Map
- S. Council- Detailed Strategic and Site Specific Merit Assessment
- T. Council - Urban Design Peer Review, Smith & Tzannes, September 2021
- U. Council - Addendum Urban Design Peer Review, Smith & Tzannes, Julu 2022
- V. Council - Peer Review of Traffic Impact Assessment, Bitzios, February 2022
- W. Council - Peer Review of Social Impact Assessment, Elton, September 2021
- X. TfNSW – Preliminary Comments on the Planning Proposal, July 2022

POLICY IMPACT

The Planning Proposal in its current form is considered inconsistent with Council's adopted land use and planning policies including the Canterbury Bankstown Local Strategic Planning Statement (LSPS), *Connective City 2036*, the Bankstown LEP 2015, the Draft Canterbury Bankstown LEP 2021 and the Canterbury Bankstown Housing Strategy. The proposed R3 Medium Density Residential zoning which would enable approximately 70 dwellings to be delivered within an established R2 Low Density Residential zoned area, in an out of centre location, is inconsistent with these strategies.

Should Council decide to proceed with the Planning Proposal, it would set an undesirable precedent that would be contrary to Council's adopted strategies that set the planning policy direction for future development in the Local Government Area (LGA). As noted previously in this report, the Planning Proposal is also inconsistent with the intent of the Department's GSRP and the District Plan.

FINANCIAL IMPACT

The applicant's Letter of Offer dated 27 April 2022 proposes a monetary contribution of \$300,000 or to undertake works in kind to this value or embellishment of open space and recreation facilities within walking distance of the site.

Council notes that the work schedule of the recently adopted Canterbury Bankstown Local Infrastructure Contributions Plan 2022 identifies new and upgraded infrastructure for Greenacre Local Centre including a new community facility, a new splash park and water play facility, public domain improvements, road network and traffic improvements that this funding could be contributed toward.

COMMUNITY IMPACT

Although, the Planning Proposal would contribute towards housing supply, Council's assessment has found that the proposed location is not appropriate for medium density residential dwelling at the scale and density proposed by the applicant.

Despite of the Planning Proposal intending to create housing choice and diversity via providing 25% of the Gross Floor Area of the future development as an affordable housing, Council's assessment considers that it is unable to establish a net community benefit in terms of a potential loss of the existing housing on the site. While the applicant's offer includes 5% affordable housing dedicated to Council in perpetuity, the remaining 20% affordable housing could be sold off to the private market after 15 years under the provisions of Chapter 2 'Affordable housing' in the State Environmental Planning Policy (Housing) 2021.

The applicant's Economic Impact Statement indicates the total construction cost of the proposal is expected to be around \$41m. Approximately 111 job years will be generated directly in design and construction, of which approximately 105 jobs will be created on site during construction.

Council's assessment findings indicate that the proposal would result in poor interface and residential amenity for future residents on the site and the adjoining residents as a result of the proposed scale and density, insufficient open space and waste collection provisions.

DETAILED INFORMATION

1. SITE DESCRIPTION

The subject site (site) at 81-95 Boronia Road, Greenacre comprises the following properties as shown in Figure 1.

Table 1: Subject site details

| Property Address | Property Description | Current Zone | Site Area |
|------------------|---|---------------------------------|-----------------------------------|
| 81 Boronia Road | Lot Y DP 418826 | Zone R2 Low Density Residential | 11,472m ² (1.147ha) |
| 83 Boronia Road | Lot x, DP 418826; Lot B DP 320337; Lot 1 DP 1074206 | | |
| 87 Boronia Road | Lot 1, DP 105002 | | |
| 95 Boronia Road | Lot 2, DP 315822 | | |

The existing development on the site includes single storey former retirement village consisting of thirty nine (39) townhouses, now occupied as ordinary residential housing, and five detached residential dwellings. Existing vehicular access to the site is via six separate driveways on Boronia Road. The site has a frontage of approximately 113m to Boronia Road and a depth of 100m.

The site has a 4.5m fall from the street to the rear of the site. The stormwater generally drains to the rear of the site, with stormwater lines to the rear boundary. The rear portion of the site is located within a flood planning area.



Figure 1: Site Map (Source: Near Map)

The site is located approximately 600m to the west of Waterloo Road which is the main street of the Greenacre Local Centre. The existing character of the area is predominantly single storey detached residential dwellings (Figure 3) with some two storey duplexes and townhouses.

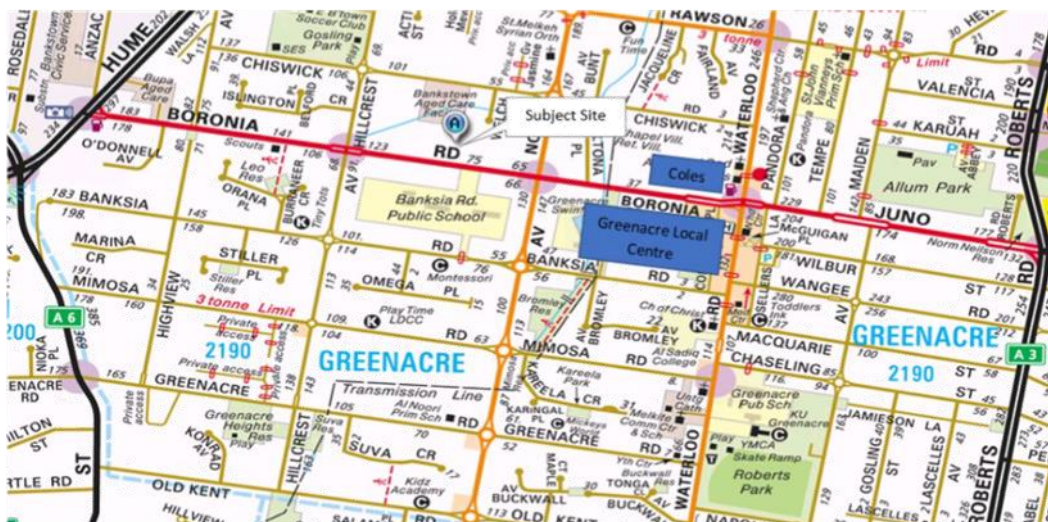


Figure 2: Site Context Map (Source: Sydway Online)

Existing uses immediately adjacent the site consist of single storey townhouse development to the east, single storey dwelling house to the west, single and two storey aged care facility to the north (with access from Chiswick Road) and Banksia Road Public School to the south directly opposite the site on Boronia Road.

The predominant mode of travel to the site is via private vehicles and/or public transport (bus services). A bus stop is located in front of the site on Boronia Road which is served by the M90 and 946 bus routes which connects the site to Liverpool, Bankstown, Burwood and Chullora Employment Zone. Boronia Road is a major east– west road link connecting the site with Hume Highway and Roberts Road and is predominantly used by freight trucks to access the Enfield Intermodal Logistics Centre.



Boronia Road Public School



95 Boronia Road, Greenacre (Subject Site)



87 Boronia Road, Greenacre (Subject Site)



81 Boronia Road, Greenacre (Subject Site)



Predominant low density housing



Some town house developments



Town house developments in the vicinity



Greenacre Coles

Figure 3: Photos of the site and existing development surrounding the site

2. PLANNING PROPOSAL

The applicant's Planning Proposal notes the following intended outcomes:

“The purpose of this Planning Proposal is to amend the Bankstown Local Environmental Plan 2015 to facilitate redevelopment of the site in a manner that supports the NSW Government’s objectives for local centres and infill development.

The proposal seeks an alternative approach to development of the site compared to that which could be achieved under the current planning controls, and is suggested would achieve a significantly improved urban design outcome, with significant social and economic benefits for the local community.

The intention is to assist Council in achieving requisite housing targets for the LGA, and to increase the supply of high quality affordable rental housing available to key workers in close proximity to the Greenacre Local Centre and Bankstown.”

Following an assessment of an initial proposal submitted in March 2021, Council met with the applicant to advise its concerns and provided options for the applicant to explore in regard to alternative site layouts and densities.

In response, the applicant submitted a revised application to rezone the site to facilitate multi-dwelling housing and sought the following amendments to the LEP:

Table 3: Summary of the applicant’s request to amend the LEP controls

| | Current LEP controls | Initial Proposal (March 2021) | Revised Proposal (Current, May 2022) |
|--------------------------------|----------------------------|-------------------------------|--------------------------------------|
| Zone | R2 Low Density Residential | R3 Medium Density Residential | R3 Medium Density Residential |
| Maximum FSR | 0.5:1 | 1.35:1 | 0.75:1 |
| Maximum Building Height | 9m (2 storeys) | 10.5m (3 storeys) | 10.5m (3 storeys) |
| Minimum Lot Size | 450m ² | 100m ² | 100m ² |



Figure 11: Bankstown LEP 2015 zoning map

The revised application includes a revised concept plan for a medium density townhouse development, comprising 70 townhouses and 150 vehicles in a basement carpark accessed via a single entry/exit off Boronia Street. 20 visitor car parking spaces and waste collection service is proposed on the ground floor, however a loading bay for waste collection is also shown in the basement.

The proposal includes a communal open space area of approximately 485m² which is approximately half the area of the communal open space offered in the initial proposal.

The applicant's Planning Proposal is accompanied by a number of reports as shown at Attachments A-R.



Figure 7: Proposed indicative Concept Plan, May 2022

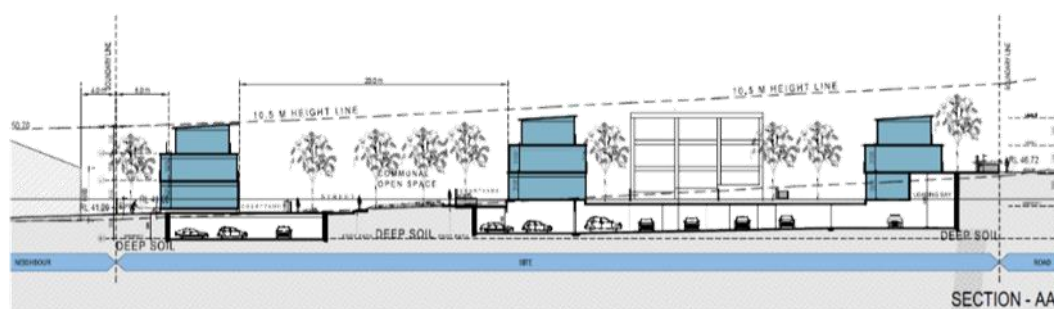


Figure 8: Section of the revised Concept Plan, May 2022



Figure 9: Revised building massing, May 2022

2.2 Planning Agreement

The revised application is accompanied by a Letter of Offer to enter into a Planning Agreement (Attachment B) comprising the following:

"...By way of an offer to enter into a Voluntary Planning Agreement, 5% of the gross floor area will be dedicated to Council for the purpose of providing affordable housing. An additional minimum 20% of the gross floor area will be made available as affordable rental housing for 15 years from the date of issue of the occupation certificate:

- (i) the dwellings proposed to be used for the purposes of affordable rental housing will be used for the purposes of affordable housing, and*
- (ii) all accommodation that is used for affordable rental housing will be managed by a registered community housing provider.*

The proponent will also either undertake works in kind or contribute \$300,000 towards the embellishment of open space and recreation facilities within walking distance of the site."

Council recommends not to proceed with the Planning Proposal to a Gateway Determination, therefore Council has at this point not progressed with the preparation of a draft Planning Agreement.

3. ASSESSMENT

Pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the Department of Planning and Environment's (the Department) LEP Making Guideline dated December 2021, the following key policies are relevant to Council's assessment of the application:

- Greater Sydney Region Plan
- South District Plan

- State Environmental Planning Policies
- Local Planning Directions (formerly Ministerial Directions)
- Canterbury Bankstown Local Strategic Planning Statement (LSPS) ‘Connective City 2036’
- Bankstown Local Environmental Plan (LEP) 2015
- Draft Canterbury Bankstown LEP 2021
- Canterbury Bankstown Housing Strategy 2020, and
- Canterbury Bankstown Affordable Housing Strategy 2020.

The section below outlines the key findings of Council’s assessment of the application.

3.1 Consistency with Strategic Planning Framework

3.1.1 Greater Sydney Region Plan – A Metropolis of Three Cities and the South District Plan:

The Greater Sydney Region Plan (GSRP) and South District Plan (the District Plan) were released by the Greater Sydney Commission (GSC) in March 2018.

The GSRP 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. To accommodate planned population growth in the Sydney Region, the GSRP encourages well designed housing in the ‘right location’ that is compatible with the existing local character to meet the projected dwelling targets .

The GSRP identifies a number of key objectives to ensure that communities are healthy, resilient and socially connected; and that a range of housing is made available to all groups in the community. Refer to the assessment against the GSRP at Attachment S.

Council’s assessment identifies that although the application would contribute towards housing supply and affordable housing for the city, it does not meet the GSRP requirements for housing to be in the ‘right location’ and be of a ‘good design’. A detailed site-specific merit assessment of the proposal confirms that the relevant objectives/priorities of the GSRP and the District Plan are not satisfactorily met by the application.

3.1.2 Local Strategic Planning Statement – ‘Connective City 2036’

Council’s LSPS guides the 20-year planning vision and changes to Council’s planning framework for the LGA. The vision of the LSPS is to sustainably grow the City, protecting environmental values, creating vibrant and connected centres, delivering housing and jobs in well planned locations around mass transit/railway stations.



Figure 10: Extract of LSPS - Hierarchy of Strategic and Local Centres

The LSPS identifies Greenacre as a ‘Local Centre’ and shows the extent of the Greenacre Local Centre boundary. Attachment S to this report provides Council’s detailed assessment of the application against the key priorities of the LSPS.

Should Council decide to proceed with the application, this would set a precedent supporting an ‘out of centre’ development. The intended outcome of the applications is inconsistent with the strategic vision of the LSPS which intends to concentrate intensification within established centres supported by existing social infrastructure facilities and public transport services.

4.1 Local Planning Directions (Section 9.1 Ministerial Directions)

Council’s assessment indicates that the application is inconsistent with the Local Planning Directions 4.1 Flooding and 6.1 Residential Zones.

Local Planning Direction 4.1 Flooding

As demonstrated in the figures below, the site is located within a flood planning area and therefore the Local Planning Direction 4.1 Flooding applies to the site.

The objective of this local planning direction is to ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and that any proposed LEP planning provisions consider potential flood impacts on and off the subject land.



Figure 20: 1 in 100 Yr Flood Affection

Council's review of the applicant's flooding assessment confirm that the proposal does not provide an acceptable assessment of flood impacts and flood risks consistent with the requirements of the Flood Risk Management Guide LU01 (DPE, 2022) (FIRA). The proposal does not consider potential risks associated with flooding, proportionate to the intensification being proposed on the site, except for a recommendation that the dwellings are to be elevated above the flood level. Further consideration of the flooding implications from enclosed spaces which may cause blockage and subsequent obstruction to flooding would be required.

The proposal does not provide information on whether there is a change in flood level/depth, flood velocities and flood hazard for multiple scenarios including but not limited to 1% AEP (100 year ARI) and Probable Maximum Flood (PMF) flooding. Additionally, the proposal has not included a management plan for evacuation in the event of a flood.



Figure 21: Probable Maximum Flood Extent

Local Planning Direction 6.1 Residential Zones

Local Planning Direction 6.1 Residential Zones requires the following:

(1) A planning proposal must include provisions that encourage the provision of housing that will:

- (a) broaden the choice of building types and locations available in the housing market, and*
- (b) make more efficient use of existing infrastructure and services, and*
- (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- (d) be of good design.*

Council's assessment of the Planning Proposal is informed by Urban Design Peer Reviews undertaken by a qualified urban design specialist. Although the Planning Proposal intends to offer housing choice, the proposed FSR and height of building will result in poor amenity for future occupants and therefore would not deliver good design outcomes.

3.1.3 Draft Canterbury Bankstown LEP 2021

Council's vision for the future growth of the Greenacre Local Centre is contained within the draft Canterbury Bankstown LEP (draft CBLEP). The draft CBLEP will consolidate the LEPs for the former Canterbury and Bankstown LGAs and is currently awaiting finalisation by the Department of Planning.

The draft CBLEP was informed by the Local Area Plans prepared by the former Bankstown City Council which sought to increase housing density around centres to accommodate population growth through to 2031. North East Local Area Plan which was adopted by Council at its Ordinary meeting of 11 May 2016.

The North East Local Area Plan accommodated additional housing growth within Greenacre Local Centre through rezoning certain lands to R4 High Density Residential Zone which will accommodate approximately 2,139 additional dwellings through to 2031. The North East Local Area Plan also included rezoning certain land in the Greenacre Local Centre to R3 Medium Density Residential Zone adjacent to the B2 Local Centre Zone, as shown in Figure 12. Given this approach by Council, there would be limited need to rezone the subject site because housing growth has been incorporated into the draft CBLEP.



Figure 12: Extract of Zoning Map under the Draft Canterbury Bankstown LEP 2021

3.1.4 Canterbury Bankstown Housing Strategy

On 23 June 2020, Council adopted the Canterbury Bankstown Housing Strategy (the Housing Strategy) to support Council's LSPS to guide future planning decisions for housing delivery in the city.

The Housing Strategy recommends that medium density housing is located on the edge of centres to allow a transition from B2 Local Centre zoned land to R2 Low Density Residential zoned areas. This is to ensure multi-dwelling housing is limited and restricted to the edge of centres where impacts resulting from higher density housing would be minimised and that such development does not occur in existing low scale areas zoned R2 Low Density Residential. This approach is reflected by Council's resolution at its Ordinary Meeting of 28 May 2019 to make amendments to the Bankstown LEP 2015 to prohibit certain multi-dwelling development in R2 Low Density Residential zoned areas.

Should Council decide to proceed with this Planning Proposal in its current form, this would create an isolated R3 Medium Density zoned parcel of land surrounded by R2 Low Density Residential zoned land, making the proposal inconsistent with the intent of Council's Housing Strategy.

3.1.5 Canterbury Bankstown Affordable Housing Strategy

On 23 June 2020, Council adopted the Canterbury Bankstown Affordable Housing Strategy. The objectives of the Affordable Housing Strategy are to increase the provision of affordable rental housing and to reduce the level of housing stress experienced by residents across the City of Canterbury Bankstown.

The Affordable Housing Strategy and Council's Planning Agreement Policy requires a 5% affordable housing contribution for Planning Proposals resulting in uplift of more than 1,000m² of residential floorspace, unless otherwise agreed with Council.

Although the application includes an offer of 25% of the GFA of the development is affordable housing, of which 5% or around four dwellings would be dedicated to Council in perpetuity. Council's peer review of the applicant's Social Impact Assessment confirms that the Planning Proposal at this stage does not consider the loss of any existing affordable housing on the site and therefore the proposal may result in an overall net loss in permanent affordable housing for Greenacre.

3.2 Assessment of Site-Specific Merit

3.2.1 Proposed scale and density

As part of the detailed site specific merit assessment of the proposal, Council commissioned an independent urban design specialist to undertake a peer review of the applicant's initial concept design report in September 2021 and the revised concept design report in July 2022.

Urban Design Peer Review, September 2021

The Urban Design Peer Review prepared by Smith & Tzannes (Attachment T) reviewed the applicant's initial concept plan against the following site principles:

- Scale is compatible with strategic vision and surrounding development
- Appropriate medium density character
- Legible circulation and address
- Clear definition of public and private space
- Consolidated open space & deep soil for tree canopy
- Housing provides high amenity for future residents
- Create safe places, and
- Traffic does not dominate the ground plane.

The Urban Design peer review presented a number of case studies to draw appropriate recommendations on density, built form and street presentation, circulation and site safety, open space, deep soil zones and other elements in the public domain.

Addendum to Urban Design Peer Review, July 2022

A further review of the revised design concept plan was completed in July 2022 following the lodgement of the revised Planning Proposal.

The Addendum Urban Design Peer Review confirms that although the revised design concept considered some of the previous recommendations of the peer review, the key matters relating to the density and height of the proposal remains unresolved. An assessment of these key issues regarding Floor Space Ratio, height of building and minimum lot size is provided below.

Floor Space Ratio (FSR)

The applicant's initial concept design proposed an FSR of 1.35:1 which was subsequently amended to 0.75:1 FSR with the revised design concept. Based on the applicant's offer for 25% affordable housing, the proposal would benefit to a bonus FSR of 0.25:1 on top of the 0.75:1 FSR under Chapter 2 'Affordable housing' in the State Environmental Planning Policy (Housing) 2021 which would result in an FSR of 1:1.

Council's Urban Design Peer Review dated September 2021 notes that the proposed scale and density is a significant concern that will result in the future built form being inconsistent with the existing low density residential character surrounding the site and the proposal not achieving a reasonable level of solar access compliance. The other matters raised in the Peer Review include insufficient side setbacks to neighbouring properties resulting into acoustic, privacy, solar impacts and issues relating to pedestrian safety, servicing and legibility concerns, as detailed in Attachment T.

Council's Addendum Urban Design Peer Review, July 2022 (Attachment U) advises that although the revised design concept has incorporated some the previous peer review recommendations, the unreasonable density and height of the proposal is not supportable on urban design grounds.

Key recommendations of the peer review which applies to the applicant's concept plans (initial and the revised) are discussed below:

The Urban Design Peer Review (September 2021) confirms that a typical townhouse of the applicant's concept plan has a gross floor area (GFA) of 140m². With an expected yield of 74 townhouses (initial concept plan), this would equate to an expected FSR of 0.9:1 across the site, which is significantly higher than the densities of surrounding multi-dwelling developments, as demonstrated in Figure 13 below. The density of the existing townhouses in the locality as noted on Figure 13 is in a range of 31 to 41 dwellings/ha.



Figure 13: Proposed residential density in the surrounding context (orange = existing multi-dwelling housing)

The Urban Design Peer Review tested alternative concept schemes, based on site principles developed by the independent urban design specialist. This resulted in a maximum

permissible FSR of 0.7:1 for the site. According to the peer review, the FSR of 0.7:1 will enable the proposal have an appropriate density that is compatible with the adjacent R2 Low Density Residential zoned land. The urban design specialist tested the following two alternative schemes (Figures 14 and 15), which provide a potential yield of approximately 50-52 dwellings (43-45 dwellings/ha, Option 1) and 45-50 dwellings (39-44 dwellings/ha, Option 2).



Figure 14: Urban Design Peer Review 2021 recommendation - Option 1

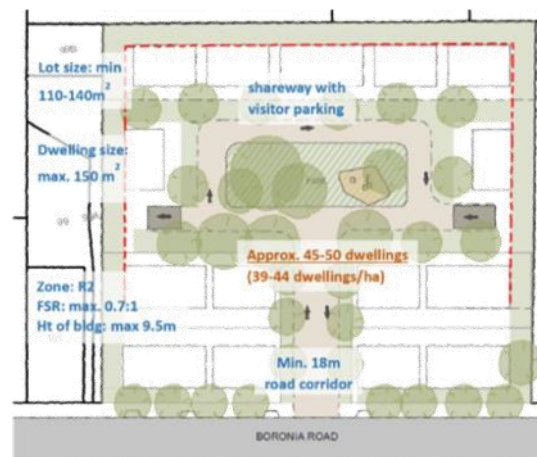


Figure 15: Urban Design Peer Review 2021 recommendation - Option 2

The Urban Design Peer Review also included a concept scheme for a currently permissible development involving attached dual occupancy dwellings under the existing LEP controls (Figure 16). A density of around 30 dwellings/ha (approximately 34 duplexes, 2 storeys) is currently permissible without requiring any changes to existing LEP controls.

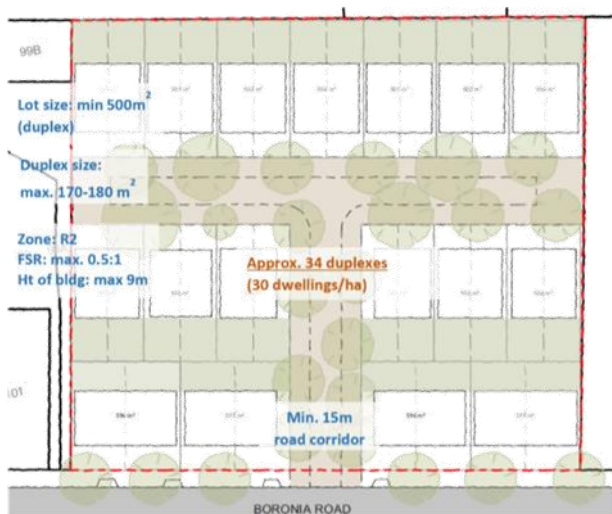


Figure 16: Complying scheme for a duplex under the Bankstown LEP 2015 (Urban Design Peer Review, September 2021)

In terms of the applicant's revised request for 0.75:1 FSR, the Addendum Urban Design Peer Review reconfirms that based on the assessment and testing of the review, there is insufficient evidence to suggest that an FSR higher than 0.7:1 can be achieved on the site. For this reason, the peer review recommends that the maximum FSR of 0.7:1 should include any

bonuses under the Chapter 2 'Affordable housing' in the Housing SEPP. In consideration to the above, the applicant's proposed FSR of 0.75:1 is not supported.

Maximum Height of Buildings

The proposal seeks to increase the maximum height of buildings from the existing control of 9m to 10.5m. The increased building height would allow for three storey development across the site which is inconsistent with the predominantly 1-2 storey low density residential character of the surrounding R2 Low Density Residential zoned area.

The Urban Design Peer Review recommends that a maximum building height of 9.5m would allow a two storey built form around the perimeter of the site, with the third storey within the attic space-roof form which should be setback from the building line in order to reduce visual bulk impacts. To achieve acceptable urban design outcomes, the attic space should be limited to 60% floor space of level below and a minimum 6m setback from all site boundaries unless fronting Boronia Road.

The Urban Design Peer review also recommends that due to a considerable fall of the site, a site specific DCP may allow some flexibility to achieve certain three storey development (10.5m) only at the centre of the site if the proposal can demonstrate that the intended 3 hr solar access to private open spaces within the site can be achieved, consistent with Council's DCP requirements. Further testing of 10.5m building heights would be required to confirm whether such a building height could be supported. This testing would be undertaken post-Gateway should Council resolve to proceed with submitting the Planning Proposal for a Gateway Determination.

In consideration to the above, the applicant's request for increasing the maximum height of buildings from 9m to 10.5m across the entire site is not supported.

Minimum Lot Sizes

In order to achieve the proposed yield of around 70 dwellings, the application seeks to vary the minimum subdivision lot size to 100m². The Bankstown LEP 2015 requires a minimum lot size of 450m² in the R2 Low Density Residential Zone.

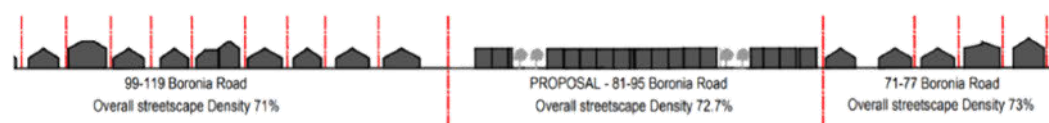


Figure 17: Streetscape study of the proposal

The existing Boronia Road streetscape along and adjacent to the site is characterised by low scale detached dwellings with a regular rhythm of spacing between the dwellings. The proposal would create a more compressed dwelling appearance along Boronia Road with minimal separation between dwellings as shown in Figure 17. Further, the lot size of 100m² is considerably smaller than the existing 450m² minimum lot size and would enable the higher residential density of proposal which is not supported by Council as outlined in this report.

The indicative floor plans of a dwelling that would be constructed on the site is shown in the figure below.

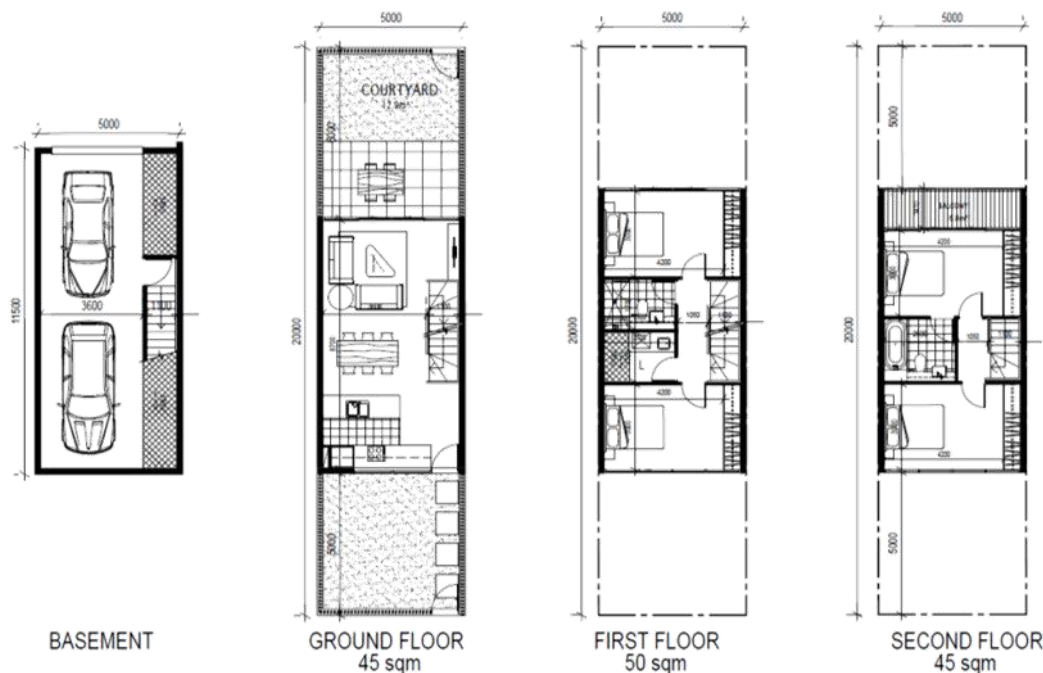


Figure 18: Typical floor plan (revised design concept)

3.2.2 Traffic and Transport

The applicant provided a Traffic Impact Assessment (TIA) for Council's consideration. This is provided in Attachment G. In August 2021, Council commissioned an independent traffic specialist to undertake a peer review of the applicant's TIA. The recommendations of the peer review are listed in Section 3 of Attachment V and summarised as follows:

- Justification needs to be provided for the assumptions in the TIA makes for the proposed traffic generation, traffic distribution, SIDRA modelling
- Early consultation with the Transport of NSW (TfNSW) is required in relation to the proposed narrowing of lanes along the Boronia Road frontage of the site, other proposed changes and the impact this may have on the functioning of the State Road and Boronia Road Public School
- Use of 'Affordable Housing' parking rates for the entirety of the development is unsuitable as the proposal does not constitute 100% affordable housing only on the site
- In order to remove the need for large trucks within the constrained basement car park, above-ground loading and waste collection areas to be considered
- Parking spaces for cars, bicycles, visitors, Person with Disabilities (PWD) to be consistent with the requirements of the Bankstown DCP 2015 and need to remove any inconsistencies in the report. Bicycle parking to be relocated from basement to a safe, convenient and public-facing space in line with passive relocated surveillance CPTED principles, and
- Swept path analysis to provide details of the largest vehicles that can access the site and the basement.

Preliminary Advice from TfNSW

In June 2022, Council referred the Planning Proposal to TfNSW to seek its preliminary advice, consistent with the requirements of the Department's LEP Making Guideline. The Guideline requires Council to undertake a preliminary consultation with relevant public authorities to ensure infrastructure related matters are addressed earlier in the Planning Proposal process.

On 8 July 2022, TfNSW advised that the findings and recommendations in Council's peer review of the Traffic Impact Assessment are supported. TfNSW provided the following additional comments:

- **SIDRA Modelling:** TfNSW did not support the applicant's SIDRA modelling and the stated traffic conditions. It is noted that the SIDRA modelling uses a generic assumed peak-periods instead of realistic site-specific peaks, evidence of calibration and validation and future year modelling (base and with development scenarios). Should Council decide to proceed with the Planning Proposal, the applicant would be required to provide evidence of calibration on an Electronic SIDRA modelling to TfNSW for review and verification. The modelling would also need to identify specific locations of deterioration by considering individual legs, in addition to the identified deterioration to the overall intersection.
- **Proposed median treatment:** TfNSW advised that future design of the proposed median treatment along the site frontage and resultant lane reduction would require concurrence from bus operators including a confirmation that the design would facilitate safe and convenient movements for pedestrians, cyclists, buses and other vehicles.

3.2.3 Open Space, Deep Soil zones and Tree Canopy

The applicant provided a Social Impact Assessment to address social impacts arising from the proposal. This is included in Attachment E.

As part of the detailed assessment of the proposal, Council engaged an independent specialist to review the applicant's Social Impact Assessment. A copy of the peer review is included in Attachment W. The Social Impact Assessment Peer Review notes the following key points:

- In accordance with Council's current open space benchmark of 2.8ha per 1,000 people, the demand of open space created by the proposal is approximately 4,200m². This requirement, according to the Government Architect's Greener Places is in a range of approximately 5,000m² - 7,000m². The peer review notes that an open space of this size may not be feasible for a Planning Proposal of this scale for an infill development, however the demand for the open space requirements should be secured via a Planning Agreement to deliver necessary community benefits. The applicant has offered to undertake works in kind or contribute \$300,000 towards the embellishment of open space and recreation facilities within walking distance of the site.
- The applicant's initial concept plan proposed approximately 823m² open space which was subsequently reduced to 485m² in the revised concept plan (refer to Page 26 of Attachment C). The Addendum Urban Design Peer Review (Attachment U) notes that in addition to a significantly reduced communal open space, the proposed width of 8.7m significantly limits the functionality of the open space and its ability to provide tree canopy over deep soil zones.

The reduction of the open space further exacerbates the adverse impacts of the increased dwelling density proposed on the site. A larger communal open space proportionate to the

scale of development proposed would allow for a greater variety of open space uses to be accommodated and additional landscaping, including tree canopy coverage, to be provided. The quantum of the open space proposed in the concept plan is therefore not supported.

The peer review recommends achieving 30% tree canopy cover on the site which sits between Council's LSPS canopy targets of 25% for medium-high density areas and 40% for lower scale suburban areas. Although, the applicant's design concept satisfies the numeric requirements of the DCP for deep soil area, it is not clear whether the intended tree canopy cover can be achieved on the site due to the extent of the basement footprint across the site. Where the trees are not located within deep soil areas, the verge depth should be increased to a minimum of 2m to allow for adequate soil volume over the slab to maintain tree health. There is insufficient information to support the applicant's claimed tree canopy coverage.

3.2.6 Affordable Housing

As detailed in Section 3.1.5 of this report, although the applicant's Letter of Offer includes delivery of affordable housing on-site, the net gain in affordable housing for the locality is marginal when the loss of existing housing on the site, comprising 39 dwellings and five detached residential dwellings is considered. Council's peer review of the applicant's Social Impact Assessment confirms that the Planning Proposal has not addressed this matter and therefore a tangible net gain in affordable housing is not likely to be delivered. A greater proportion of affordable housing, above the 5% offered by the applicant, should be pursued should Council resolve to proceed to a Gateway Determination for the application.

3.2.7 Residential Amenity

In consideration to the proposed density and height of buildings, Council does not support the proposed increased FSR and building heights due to the adverse amenity impacts such as excessive visual bulk, overshadowing and overlooking to the adjoining established low density residential areas and to the future residents within the site.

As noted in the Addendum Urban Design Peer Review, although the revised concept plan has improved internal site circulation/access and delineation of public/private space to improve passive surveillance and movement, the scale and density remains inappropriate for the site and site context.

The revised concept plan includes a shadow study for the proposal between 9am- 4pm for the mid-winter solstice. The proposal does not confirm that it is consistent with the solar access requirements of Council's DCP and to achieve acceptable solar access and minimise overshadowing impacts, limiting the height of the buildings to two storeys along the perimeter of the site, increasing private open space and minimum lot size, and reducing the overall FSR and height of the proposal would be required.

Furthermore, it is also noted that although the applicant's Social Impact Statement recommends preparing an acoustic report to address and mitigate acoustic impacts arising from Boronia Road, the application is not informed by such studies at this stage.

3.2.4 Waste Collection

The Urban Design Peer Review recommends accommodating waste collection services at ground level to minimise potential conflict with other traffic in the basement. The revised concept plan does not provide sufficient information regarding the proposed waste collection facilities. A loading bay is located within the basement, however a bin collection area for approximately nine bins is shown on the ground level. The bin presentation area on the ground floor is small and is poorly located.

Council's assessment confirms that the proposed waste collection facilities do not satisfy Council's DCP requirements and therefore is not supported. A kerbside collection along Boronia Road is not feasible as the street frontage required for a kerbside collection is 130m which is greater than the street frontage of the site. Additionally, multiple wheelie bins presented to the kerbside would have a negative impact on the surrounding amenity.

Applicant's proposal currently do not provide any vehicle details for the purposes of on-site waste collection which is to be provided by a HRV as per Australia Standard (AS) 2890.2 *Parking Facilities: Off Street Commercial Vehicle Facilities*. For any basement access, the on-site collections are to accommodate a minimum height clearance of 4.5m, a minimum 12.5m length vehicle and additional 2m must be provided for bin loading at the rear of the vehicle.

Next Steps

Council's assessment of the proposal confirms that the Planning Proposal in its current form does not adequately demonstrate a clear strategic and site-specific merit to proceed to a Gateway Determination. Council's ongoing master planning of its strategic and other centres is able to comfortably absorb the number of dwellings proposed on this site, without needing this site-specific Planning Proposal which has many intangible costs associated with it.

It is recommended that-

1. The Canterbury Bankstown Local Planning Panel (the Panel) note the applicant initiated Planning Proposal for the site at 81-95 Boronia Road, Greenacre and the detailed assessment of the Planning Proposal undertaken by Council Officers.
2. The Panel endorse the recommendations of this report that the Planning Proposal does not proceed to Gateway Determination.



2 August 2023

Godfrey Vella

Sent via email: j

Dear Godfrey,

RE: Planning Proposal at 81-95 Boronia Road, Greenacre

I refer to the planning proposal submitted to Council in March 2021 for the site at 81-95 Boronia Road, Greenacre that seeks to facilitate a multi dwelling housing development by rezoning the site from R2 Low Density Residential to R3 Medium Density Residential and increasing the building height and FSR controls under the Local Environmental Plan.

The purpose of this letter is to request an update from you on the status of the planning proposal and your intentions to submit a revised planning proposal. Council received a revised scheme in May 2022 which was subsequently reported to the Local Planning Panel (the Panel) on 1 August 2022. The Panel deferred consideration of the planning proposal to enable amendments that addressed concerns raised in the Council's report that was considered by the Panel. Furthermore, Council contacted you via telephone in January 2023 regarding a status update and progression. Council has not received any amended plans or documents to date.

If you still wish to proceed with the planning proposal, please submit the revised documentation by **COB 13 September 2023**. Please note due to the substantial changes required in order to address Council's concerns in the Panel report, an amended planning proposal fee of **\$22,964.00** will be required as per Council's adopted [Fees and Charges 2023/24](#). This will be invoiced upon receipt of revised documentation. If you do not wish to proceed with the planning proposal, please write to Council by the abovementioned date advising you request to withdraw the application.

Council are happy to organise a meeting prior to the due date should you wish to present the revised scheme prior to submission. Please feel free to contact Hannah Painter, Strategic Planner on 9707 5462 or Hannah.Painter@cbc.city.nsw.gov.au to organise this.

For any further information or enquiries regarding this matter, please feel free to contact Hannah on the information above.

Yours sincerely

Patrick Lebon
Coordinator Strategic Assessments
Canterbury Bankstown Council

BANKSTOWN CUSTOMER SERVICE CENTRE
Upper Ground Floor, Civic Tower, 66-72 Rickard Road,
Bankstown NSW 2200, PO Box 8, Bankstown NSW 1885

CAMPBIE CUSTOMER SERVICE CENTRE
137 Beamish Street, Campsie NSW 2194
PO Box 8, Bankstown NSW 1885

CANTERBURY-BANKSTOWN COUNCIL
ABN 45 985 891 846 **P.** 9707 9000 **F.** 9707 9700
W. cbc.city.nsw.gov.au
E. council@cbc.city.nsw.gov.au

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