



# **AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING**

**8 May 2024 - 6:00 PM**

**Location:  
Council Chambers  
corner Chapel Road and the Mall  
Bankstown**

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## ORDER OF BUSINESS

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### APOLOGIES AND DECLARATIONS

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### DARANI / BANKSTOWN WARD

- 1      **Planning proposal for 913-925 Punchbowl Road and 21-23 Canterbury Road, Punchbowl (RZ-1/2023)** 3
- 2      **41 Wattle Street, Punchbowl**  
  
Ancillary place of assembly associated with existing Community Centre 43

### BURA / BASS HILL WARD

- 3      **44 & 46 Wellington Road, Chester Hill**  
  
THIS ITEM HAS BEEN REMOVED DUE TO ERROR  
  
65

### BUNYA / REVESBY WARD

- 4      **41 Burbank Avenue, East Hills**  
  
Demolition of existing dwelling and construction of a two storey attached dual occupancy with shared semi basement garage, shared spa/pool and strata title subdivision into two lots, with existing waterfront boatshed, ramp and gazebo to be retained.  
Section 4.55(2) Modification: 1m increase to overall wall height, 1m increase to overall building height, increase floor to ceiling heights, consolidate upper ground floor slab level, minor layout changes to basement ramp entrance, upper ground floor staircase void increase, and new external stairs on side setbacks. 91

### BUNMARRA / ROSELANDS WARD

- 5      **57 Stoddart Street, Roselands**  
  
Demolition of existing structures and construction of a 40 place child care centre with basement parking 109



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## Canterbury Bankstown Local Planning Panel - 8 May 2024

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<b>ITEM 1</b>	<b>Planning proposal for 913-925 Punchbowl Road and 21-23 Canterbury Road, Punchbowl (RZ-1/2023)</b>
<b>APPLICANT</b>	<b>Chris Tsioulos</b>
<b>OWNERS</b>	<b>The Croatian Club Ltd, Westwood Capital Pty Ltd, Ziad Seraidar, Mirvett Seraidar, Constantine Savell, Bertell Pty Ltd, Est Late Qama Sattar</b>
<b>AUTHOR</b>	<b>Planning</b>

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### PURPOSE AND BACKGROUND

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The purpose of this report is to seek the Local Planning Panel's advice on proposed changes to the *Canterbury Bankstown Local Environmental Plan 2023*. Council is in receipt of an application to prepare a planning proposal for the sites at 913-925 Punchbowl Road and 21-23 Canterbury Road, Punchbowl. The planning proposal seeks the following for the land at 913-925 Punchbowl Road and 21 Canterbury Road, Punchbowl (former 'Club Punchbowl' site):

- Rezone the R2 Low Density Residential portion to R4 High Density Residential
- Increase the maximum building height from 9m and 11m to a maximum of 38m
- Increase the FSR from 1:1 to 2.1:1 on 923-925 Punchbowl Road and 21 Canterbury Road and, from 0.5:1 to 1.3:1 on 913-921B Punchbowl Road, and
- Include an additional permitted use on the B1 – Neighbourhood Centre portion of the site to include 'tourist and visitor accommodation', 'function centres' and 'registered clubs'.

The planning proposal proposes the following changes for the site at 23 Canterbury Road, Punchbowl:

- Increase the maximum building height from 11m to a maximum of 35m, and
- Increase the FSR from 1.1:1 to 1.3:1.

It is noted that the planning proposal originally submitted by the proponent did not include 23 Canterbury Road, however during Council's assessment of the application it was concluded that inclusion of the site would result in an improved urban design outcome without materially impacting the future redevelopment of the land at 913-925 Punchbowl Road and 21-23 Canterbury Road.

The planning proposal is supported by a Letter of Offer which outlines the proponent's in-principal commitment to dedicate 5% of the total amount of residential units as affordable housing and monetary contributions paid through Section 7.11/7.12 contributions. The application will also contribute to pedestrian crossing upgrades to the Canterbury Road and Punchbowl Road intersections including upgrades to traffic lights and the construction of a pedestrian refuge island on Punchbowl Road. Council in-principle supports the Letter of Offer however will further negotiate with the applicant with the aim of increasing the quantum of the commitments as part of a revised Letter of Offer and draft Planning Agreement, prior to exhibition of the planning proposal. This will be informed through the engagement of an independent expert to provide economic and feasibility analysis to confirm quantum of affordable housing floor space and public benefits that would be reasonable to deliver by the developer. Council does not support future development of the site being excluded from the payment of Section 7.11/7.12 contributions.

The planning proposal will facilitate the redevelopment of the former 'Club Punchbowl' site which will have a significant positive social and economic related benefits as it provides the capacity for additional diverse housing options in Punchbowl, the provision of publicly accessible open space to the wider community as well as additional jobs through the redevelopment of the registered club on the site and increased commercial floor space.

A detailed assessment of the application indicates that there is strategic and site-specific merit to proceed to the next step in the plan making process and seek Gateway approval from the Department of Planning, Housing and Infrastructure (DPHI). Council will prepare an amendment to the Canterbury Bankstown Development Control Plan (DCP), that will set out the detailed planning and development controls for the site where current controls would be insufficient, with these changes to be publicly exhibited alongside the planning proposal.

## ISSUE

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In accordance with the Local Planning Panels Direction, issued by the Minister for Planning and Public Spaces in 2018, the Canterbury Bankstown Local Planning Panel is requested to provide advice for Council's consideration on whether a planning proposal for the site 913-925 Punchbowl Road and 21-23 Canterbury Road, Punchbowl should proceed to DPHI for a Gateway determination.

## RECOMMENDATION That -

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1. The application to amend the *Canterbury Bankstown Local Environmental Plan 2023* proceed to the Department of Planning, Housing and Infrastructure for a Gateway determination, subject to the matter being reported to Council for a resolution to proceed and the following matters being addressed prior to exhibition (after Gateway determination):
  - a. Council prepare and exhibit a site specific DCP Amendment as outlined in this report. In addition to the typical DCP controls, the DCP is to include the following site specific issues:
    - i. Site-specific flooding objectives and controls to appropriately manage flooding impacts in relation to protecting basement entries up to the Probable Maximum Flood level
    - ii. Details of required road and intersection upgrades along Punchbowl Road and Canterbury Road in consultation with Transport for NSW, and

- iii. Submission of an Aboriginal Cultural Heritage assessment in accordance with the Government Architect NSW 'Connecting with Country Framework' to inform the preparation of the site-specific DCP controls.
  - b. A draft Planning Agreement be prepared and exhibited subject to the following:
    - i. Council undertakes further negotiations with the developer to seek increased public benefits, to confirm the total value of each works and monetary contribution item in the Letter of Offer. This may include further analysis and an independent peer review being undertaken by Council prior to exhibition.
- 2. Subject to the issue of a Gateway determination, Council exhibits the planning proposal, draft site specific DCP and draft Planning Agreement and the matter be reported to Council following the exhibition.

Council seek authority from the Department of Planning, Housing and Infrastructure to exercise the delegation in relation to the plan making functions under Section 3.36(2) of the Environmental Planning and Assessment Act 1979.

## ATTACHMENTS

[Click here for Attachments](#)

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- A. Planning proposal (November 2023)
  - B. Draft Letter of Offer (April 2023)
  - C. Architectural Package (October 2023)
  - D. Landscape Report and Plan (November 2023)
  - E. Flooding Assessment Additional Response (November 2023)
  - F. Flood Investigation Report (June 2022)
  - G. Detailed Site Investigation Report (April 2022)
  - H. Remediation Action Plan (July 2022)
  - I. Geotechnical Assessment Report (December 2019)
  - J. Acid Sulfate Soils Assessment Report (April 2022)
  - K. Acid Sulfate Soils Management Plan (December 2019)
  - L. Retail Study (no date)
  - M. Traffic Assessment & Swept Paths (November 2023)
  - N. Traffic Impact Assessment (April 2023)
  - O. Urban Design Report (November 2023)
  - P. Waste Management Plan (November 2023)
  - Q. Council - Peer Review of Flood Assessment for Club Punchbowl Planning Proposal (March 2024)

## **POLICY IMPACT**

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Council's adopted Local Strategic Planning Statement (LSPS) – 'Connective City 2036' guides the future growth and development of the City of Canterbury Bankstown to 2036. The site is identified as a village centre to provide urban services. The proposal responds to the key directions by reinforcing the role of the site as a village centre through facilitating the delivery of 334 new dwellings and 686 jobs linked with the construction and operation commercial development.

The site is located at the western end of the Canterbury Road Corridor and was included as part of the Canterbury Road Review (2017). The planning proposal is consistent with the Review as it will set aside land to form part of a new green 'linear parkway' along its western edge and proposes planning controls to facilitate new mixed use development that provides housing and employment floor space with newly create publicly accessible open space.

The proposal aligns with the planning priorities within the South District Plan to deliver on jobs and housing growth in the form of high quality, well designed and sustainable development. The South District Plan identifies that Canterbury Bankstown Local Government Area (LGA) will accommodate 70% of population growth in the South District, and that planning must provide services and social infrastructure to meet this growth and changing needs. The planning proposal, which seeks to enable a mixed-use development, will facilitate additional housing and commercial floor space in a location serviced by public transport (bus services) and support additional open space through the inclusion of three new public parks and open spaces.

The planning proposal also meets the relevant objectives and principles of Council's Housing Strategy and Affordable Housing Strategy by enabling diverse and affordable housing types. The planning proposal is consistent with the Employment Lands Strategy that recommends retaining the B1 zoning on the site to continue to provide a range of small-scale retail and other services that serve the convenience needs of people that live and work in the surrounding neighbourhood.

The Additional Permitted Uses proposed in this planning proposal for the B1 Neighbourhood Centre zoned portion of the site will be consistent with the permissible land uses adopted by Council as part of the State-led employment zones reform changes, which will be subject to a separate planning proposal.

## **FINANCIAL IMPACT**

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The proposal as it is supported by a Letter of Offer that ensures appropriate infrastructure upgrades are provided to accommodate the intensification of the site for the public interest. The infrastructure upgrades proposed will be delivered through a Planning Agreement as outlined in this report in addition to ordinary conditions of any development approval, intended to off-set any potential financial implications on Council.

In addition to the infrastructure delivered by the proponent in a future Planning Agreement, any future development on the site would be required to pay Section 7.11/7.12 Development Contributions in accordance with Council's Local Infrastructure Contributions Plan 2022.

## COMMUNITY IMPACT

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The planning proposal will have the following community impact outcomes:

- Enable the delivery of a new mixed-use development on the site that aligns with the strategic vision set out in Council's LSPS.
- Deliver a number of positive social and economic related benefits to the surrounding community and broader city in relation to jobs and housing growth and access to new publicly accessible open space and community facilities.
- Enable additional housing in a range of tenures and types which includes the dedication of affordable housing on the site or monetary contributions to affordable housing in the LGA. Punchbowl is identified as a suburb experiencing high areas of rental stress in the LGA and this proposal will help alleviate this significant issue.
- Facilitate additional jobs once operational resulting from the refurbishment of the existing club and additional retail floor space.
- Change to the existing built form of the current development on the site and will change the character of the surrounding area, however the scale of change reflects recent development to the south along Canterbury Road and tapers in height and scale to the lower density residential properties to the north. The planning proposal creates an opportunity for high quality, well designed development in accordance with the objectives and recommendations of the Canterbury Road Review.
- Deliver improvements to the local infrastructure through a Planning Agreement including monetary contributions through Section 7.11/7.12 Development Contributions.

## DETAILED INFORMATION

### 1. SITE AND LOCALITY DESCRIPTION

The subject site (site) known as the former 'Club Punchbowl' club and comprises the following properties as shown in Table 1.

Table 1. List of properties included in the subject site.

Property Address	Property Description	Current Zone	Site Area
913 Punchbowl Road, Punchbowl	Lot B DP 378634	R2 Low Density Residential	961m <sup>2</sup>
915 Punchbowl Road, Punchbowl	Lot 2 DP 21524	R2 Low Density Residential	663.94m <sup>2</sup>
917 Punchbowl Road, Punchbowl	Lot 3 DP 21524	R2 Low Density Residential	651.29m <sup>2</sup>
919 Punchbowl Road, Punchbowl	Lot 4 DP 21524	R2 Low Density Residential	651.29m <sup>2</sup>
921 Punchbowl Road, Punchbowl	Lot 6 DP 5245	R2 Low Density Residential	3,870m <sup>2</sup>
921A Punchbowl Road, Punchbowl	Lot A DP 378634	R2 Low Density Residential	3,863m <sup>2</sup>
921B Punchbowl Road, Punchbowl	Lot D DP 382627	R2 Low Density Residential	1,948m <sup>2</sup>
923 Punchbowl Road, Punchbowl	Lot 15 DP 132440	B1 Neighbourhood Centre	3,876m <sup>2</sup>
925 Punchbowl Road, Punchbowl	Lot 1 DP 236825	B1 Neighbourhood Centre	588.1m <sup>2</sup>
21 Canterbury Road, Punchbowl	Lot 14 DP 132440	B1 Neighbourhood Centre	3,389m <sup>2</sup>
23 Canterbury Road, Punchbowl	Lot 12 DP 1027748	B1 Neighbourhood Centre	4,903m <sup>2</sup>
<b>Total Development Site Area</b>			<b>25,364.62m<sup>2</sup></b>

The site is a corner allotment with a 191m eastern frontage to Punchbowl Road and a 145m southern frontage to Canterbury Road. The properties at 921-925 Punchbowl Road and 21 Canterbury Road contain a registered club known as 'Club Punchbowl', formerly the 'Croatian Club'. The properties at 913-919 Punchbowl Road contain dwelling houses. The property at 23 Canterbury Road features a landscaping supplies business with a small single storey site office.

The site is subject to electricity and drainage easements, road widening reservations and noise exposure from Canterbury Road and Punchbowl Road. In relation to local context, the site is located 1.2km to the southwest of the Punchbowl railway station and 18km from the Bankstown strategic centre. Low-rise residential neighbourhoods surround the site with some commercial premises to the south and west, and Punchbowl Park to the east. An aerial view of the site is provided in Figure 1.



Figure 1. Aerial view of subject site.

## 2. HISTORY OF PREVIOUS PLANNING PROPOSAL

A brief outline of the history of this proposal is provided below:

- July 2017 – the site was subject to a previous planning proposal which proposed the following:
  - Rezone the properties at 913 – 921B Punchbowl Road from Zone R2 Low Density Residential to Zone B1 Neighbourhood Centre
  - Permit a maximum 17m building height and a maximum 1.8:1 FSR
  - Apply a site-specific provision to the properties at 913 – 925 Punchbowl Road and 21 Canterbury Road to require consolidation into a single site if development is to achieve the maximum 1.8:1 FSR. Otherwise, a maximum 1.1:1 FSR to apply
  - Do not apply the Lot Size map to 913 – 921B Punchbowl Road as the Lot Size Map did not apply to the Zone B1 Neighbourhood Centre.
- September 2017 – The matter was reported to the Council's Independent Hearing Assessment Panel (IHAP) recommending the proposal proceeds to Gateway. IHAP agreed with the report's recommendation.
- November 2017 – At the Ordinary Council Meeting of 28 November 2017, the Council resolved to submit the planning proposal seeking a Gateway determination.



- May 2018 – The Department of Planning, Housing and Infrastructure (DPHI) issued a Gateway determination and subsequent conditions.
- May 2019 – An extension was sought from the applicant which was granted by DPHI until 31 December 2020
- November 2020 – A further extension was requested due to financial hardships resulting from the COVID-19 pandemic.
- March 2021 – DPHI resolved not to grant an extension to the Gateway determination however, highlighted they would be willing to work with Council to progress a planning proposal for this site subject to the resolution of key design and environmental issues. The planning proposal was subsequently withdrawn.

### 3. PROPOSAL

Council received an application to amend the *Canterbury Bankstown Local Environmental Plan 2023*<sup>1</sup> to facilitate medium and high-density residential accommodation and commercial development including registered clubs, hotel or motel accommodation and function centres.

In September 2022 the applicant submitted a ‘scoping report’ which provided details of an LEP Amendment as follows:

- Rezoning the properties at 913-921B Punchbowl Road from R2 Low Density Residential to R4 High Density Residential.
- Applying a varying maximum height across the site including 11m, 16m and 20m.
- Permit a maximum FSR of 1.1:1 for 913-921B Punchbowl Road and 2.1:1 for 923-925 Punchbowl Road and 21 Canterbury Road.
- Include ‘function centres’ as an Additional Permitted Use (APU).

In February 2023 Council requested further information from the applicant prior to proceeding to formal lodgement. The applicant provided the required information, and the application was formally lodged in April 2023.

The revised application as lodged in April 2023 intends to amend the CBLEP 2023 as summarised in Table 2. Figure 3 provides the scheme recommended by Council and this is discussed in more detail in Section 4.2 of this report. A copy of the current and proposed draft LEP maps is provided in Figures 5 – 11.

*Table 2. Summary of proposed LEP amendments.*

Proposed LEP Amendment	Explanation of proposed provisions and intended outcomes.
Land Zoning	<ul style="list-style-type: none"> <li>• Rezone the properties at 913 – 921B Punchbowl Road from R2 Low Density Residential to R4 High Density Residential.</li> </ul>
Floor Space Ratio	<ul style="list-style-type: none"> <li>• Amend the maximum FSR for the properties at 923-925 Punchbowl Road and 21 Canterbury Road to 2.1:1 and for the properties at 913-921B Punchbowl Road to 1.3:1.</li> <li>• 23 Canterbury Road – increase the maximum permitted FSR from 1.1:1 to 1.3:1</li> </ul>
Height of Buildings	<ul style="list-style-type: none"> <li>• Increase the maximum permitted building height to vary across 913-921B, 923-925 Punchbowl Road and 21 Canterbury Road from 11m to 38m.</li> </ul>

<sup>1</sup> Upon formal lodgement of the application in April 2023, the *Canterbury Bankstown Local Environmental Plan 2023* (CBLEP 2023) had yet been gazetted. CBLEP 2023 was gazetted in June 2023. Some documentation provided by the applicant may refer to the Draft CBLEP and the *Bankstown Local Environmental Plan 2015*.



Proposed LEP Amendment	Explanation of proposed provisions and intended outcomes.
	<ul style="list-style-type: none"> <li>23 Canterbury Road – increase the maximum permitted building height from 11m to 35m</li> </ul>
Additional Permitted Use	<ul style="list-style-type: none"> <li>Include ‘tourist and visitor accommodation’, ‘function centres’ and ‘registered clubs’ as Additional Permitted Uses for the properties at 923-925 Punchbowl Road.</li> </ul>

The development will also include three areas for public and communal open space including a playground built to Council’s ‘Play Level 2’ specifications which will include *‘Quality and interesting playgrounds and play spaces with diverse activity opportunities and good support structures and settings’*.

A site-specific draft Development Control Plan (DCP) has not been submitted by the applicant. It is intended that the draft DCP amendment will be prepared by Council and made available for public comment during a public exhibition period for any required site-specific controls, otherwise, Council’s current controls for high density residential and mixed use development will apply.

The additional information submitted by the applicant during the assessment of the planning proposal addresses Council’s key issues, however as outlined in this report, additional information is required from the applicant and should be submitted, prior to public exhibition of the planning proposal and in response to any Gateway conditions. Furthermore, it is proposed to reintroduce the site-specific provision for site consolidation which was incorporated as part of the 2017 planning proposal. This is discussed in more detail in section 4.2.6 of this report.

The applicant has submitted a Letter of Offer, at Council’s request, that comprises the following items:

- Dedication of affordable housing – 5% of the total amount of residential units over the site and project shall be dedicated to Council as affordable housing, and
- Dedication of land for road widening as required by Transport for NSW.

A draft Planning Agreement will be progressed subject to an agreement being reached on the above public benefit offer items and Council’s intent to negotiate a greater public benefit offer. Refer to Section 5.8 for details of the monetary value of the proposed public benefit offer.

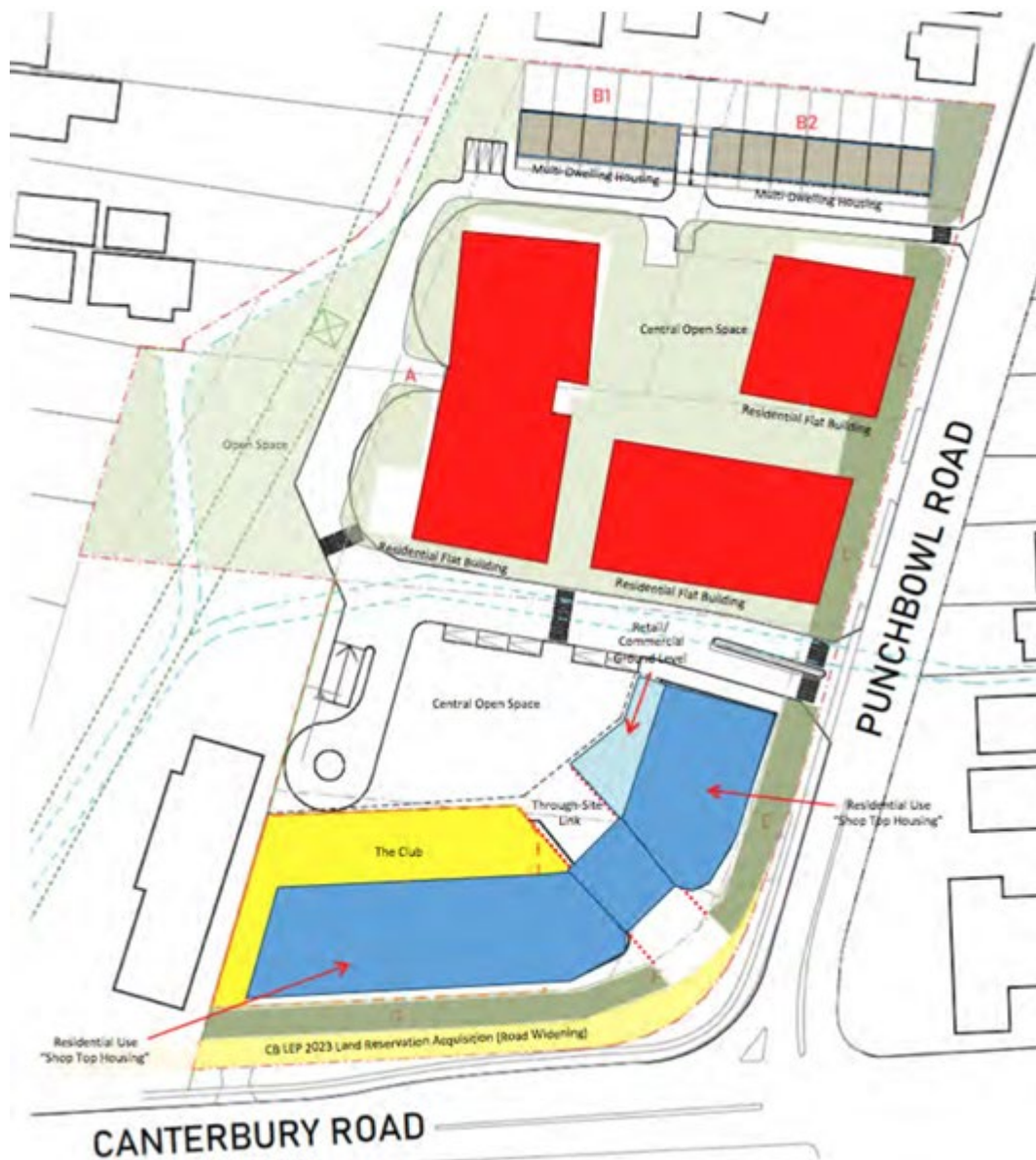


Figure 2. Site Plan showing the indicative concept development scheme (Council developed scheme).



Figure 3. Council's preferred development scheme.

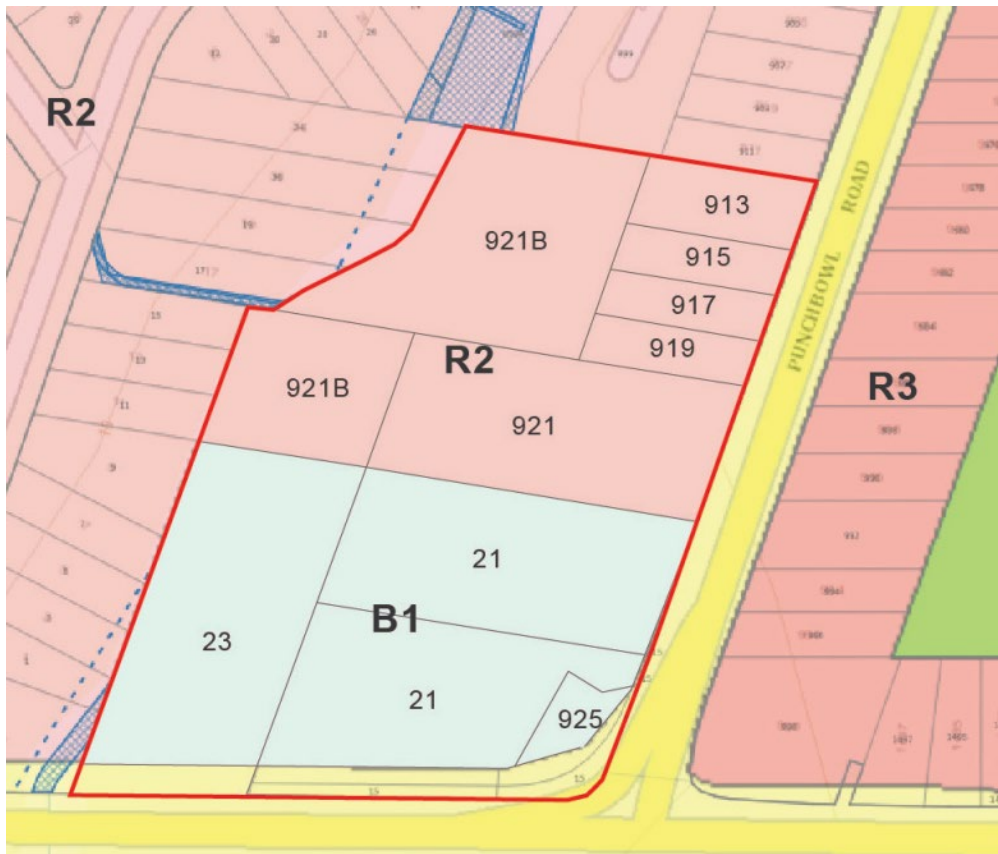


Figure 4. Existing Land Use Zoning.

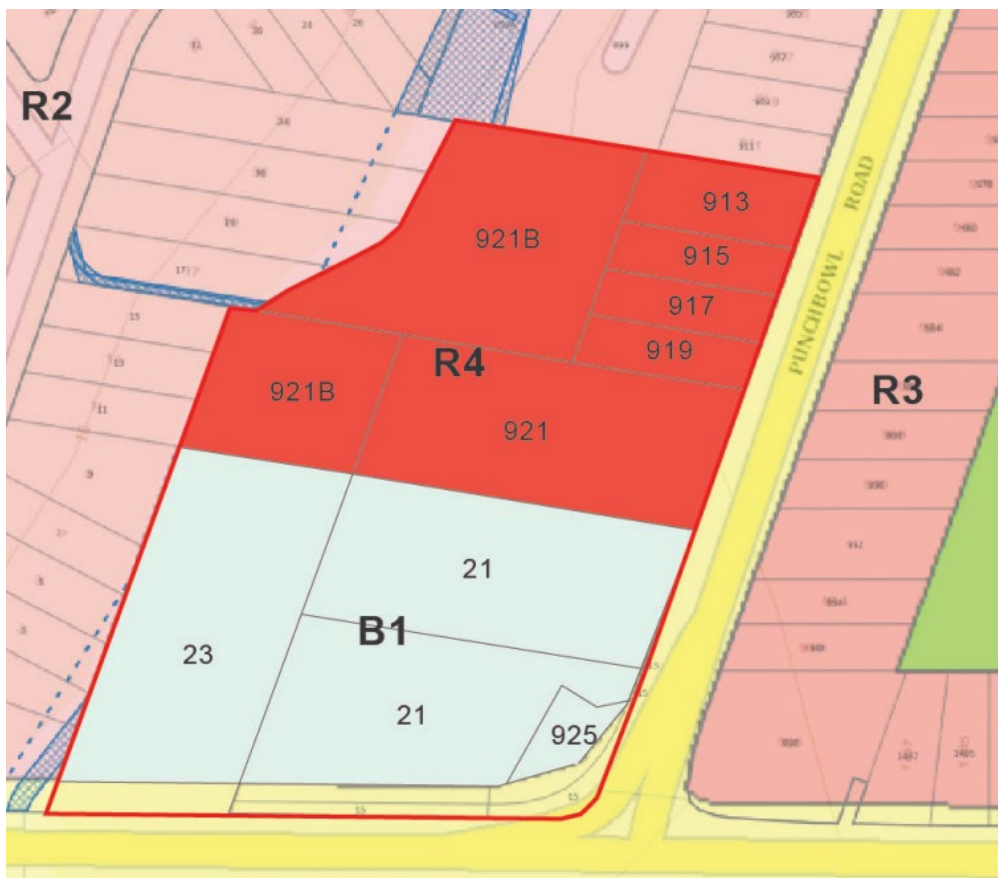


Figure 5. Proposed Land Use Zoning map.



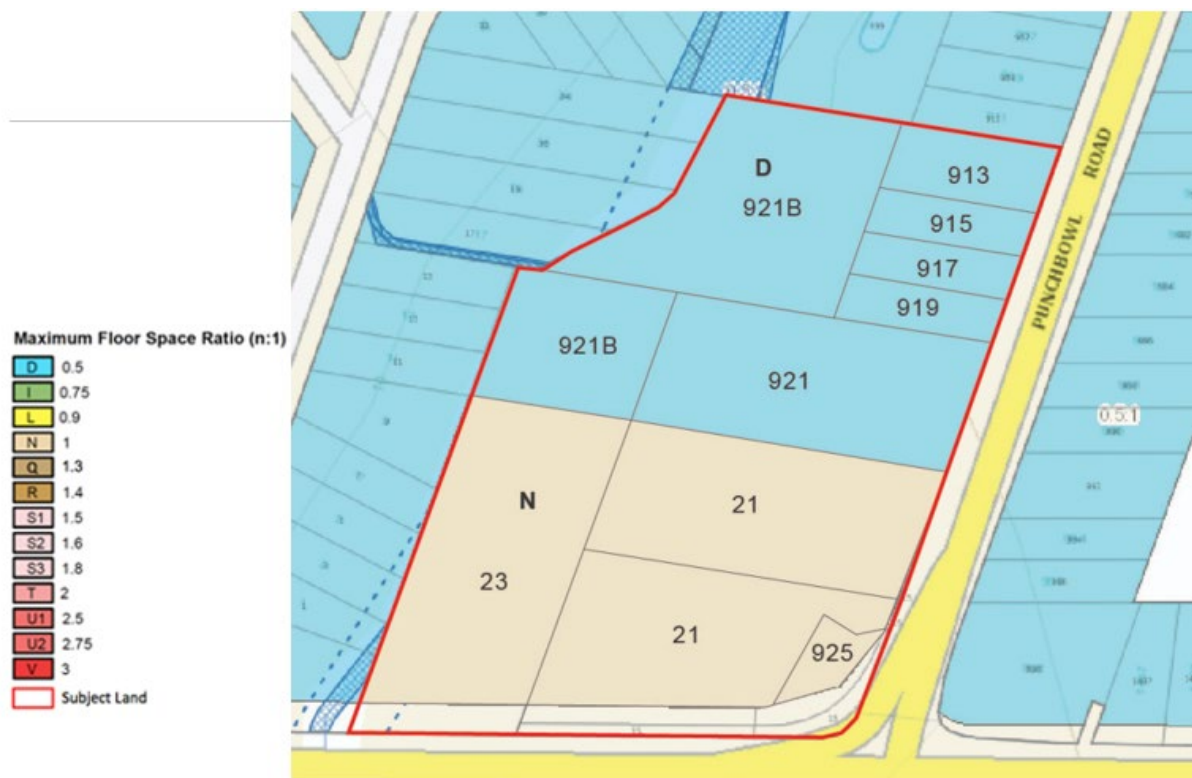


Figure 6. Existing Floor Space Ratio map.

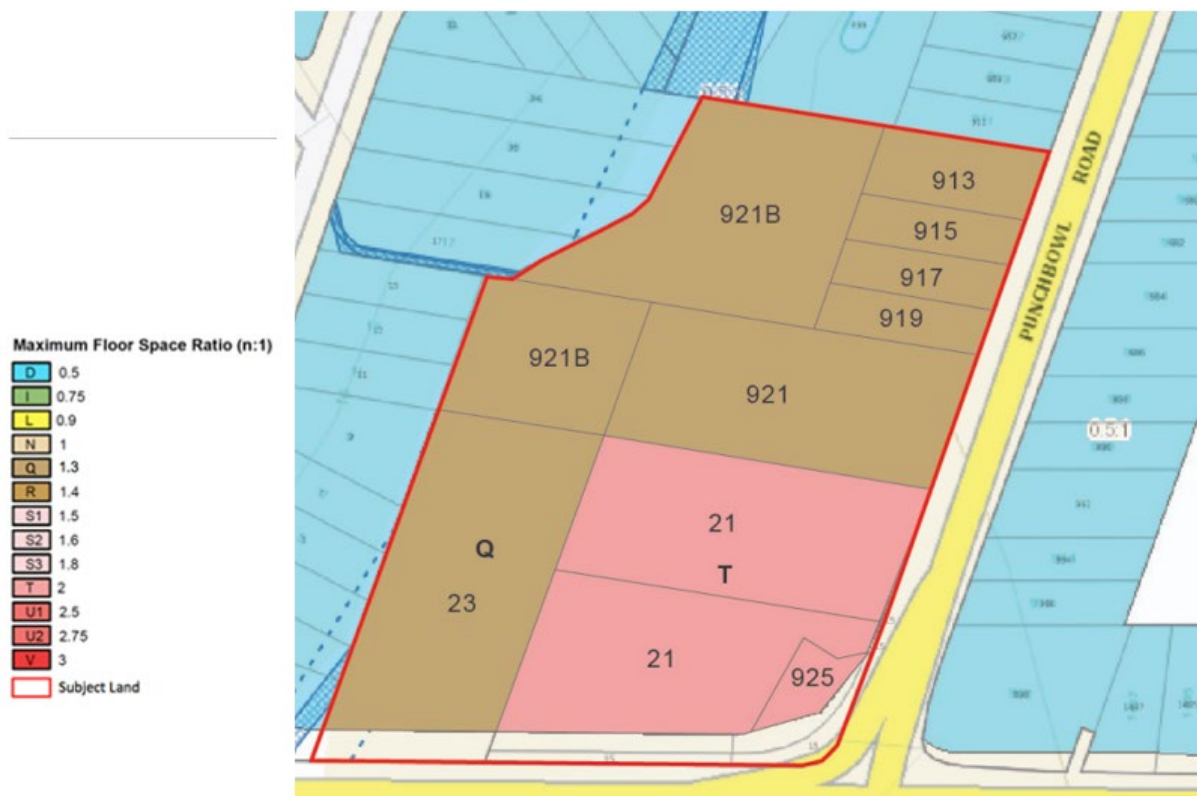


Figure 7. Proposed Floor Space Ratio map.

**Maximum Building Height (m)**

J	9.0
K	10.0
L	11.0
N1	13.0
N2	14.0
O	16.0
P	17.0
Q1	19.0
Q2	20.0
S	23.0
T1	25.0
T2	26.0
T3	29.0
U1	30.0
U2	32.0
V1	35.0
V2	38.0
W	41.0
X	47.0
Y	53.0

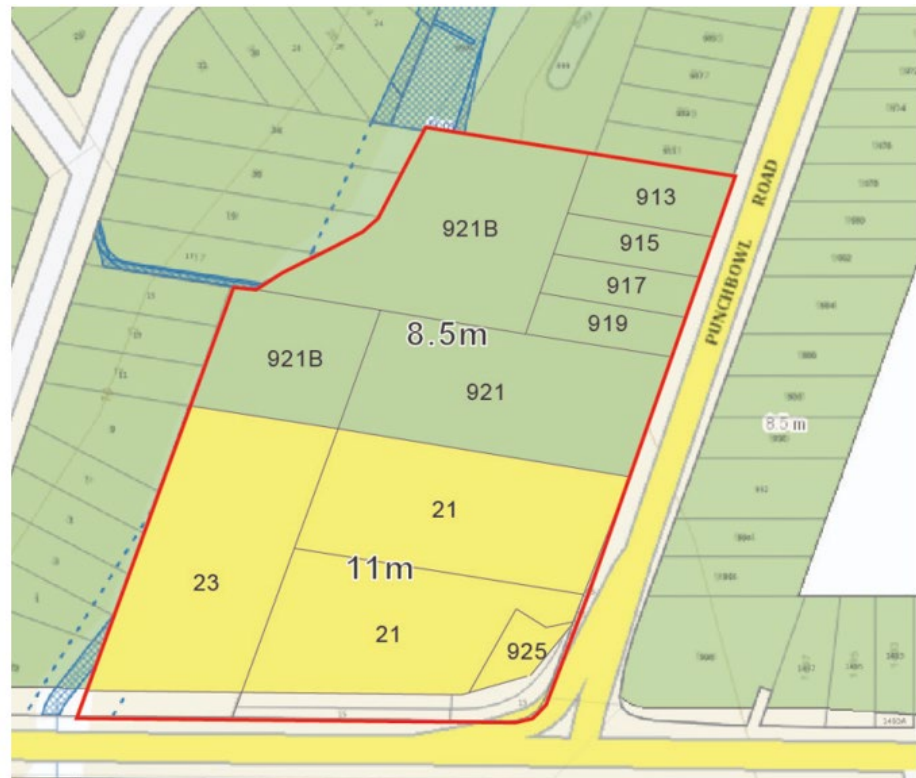


Figure 8. Existing Height of Building map.

**Maximum Building Height (m)**

J	9.0
K	10.0
L	11.0
N1	13.0
N2	14.0
O	16.0
P	17.0
Q1	19.0
Q2	20.0
S	23.0
T1	25.0
T2	26.0
T3	29.0
U1	30.0
U2	32.0
V1	35.0
V2	38.0
W	41.0
X	47.0
Y	53.0

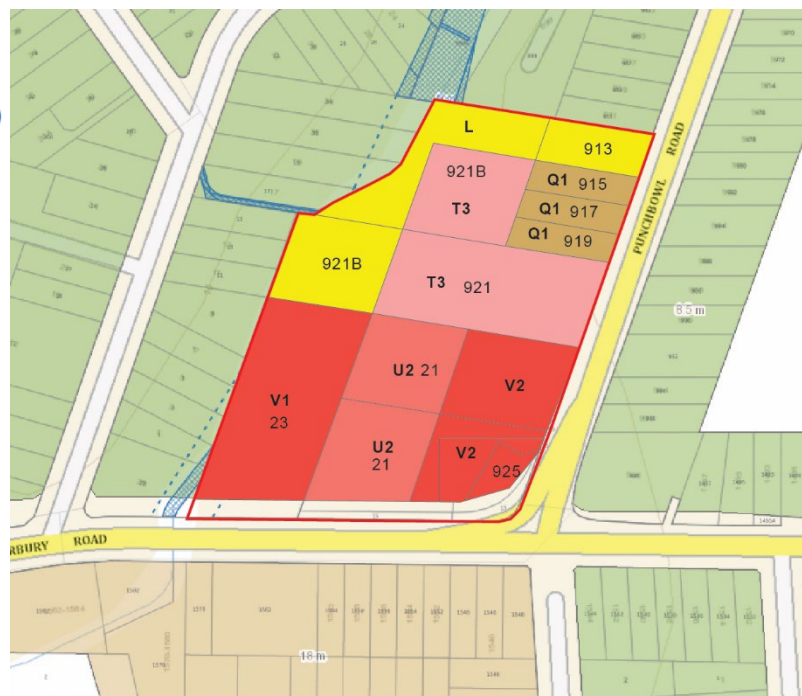


Figure 9. Proposed Height of Building map.

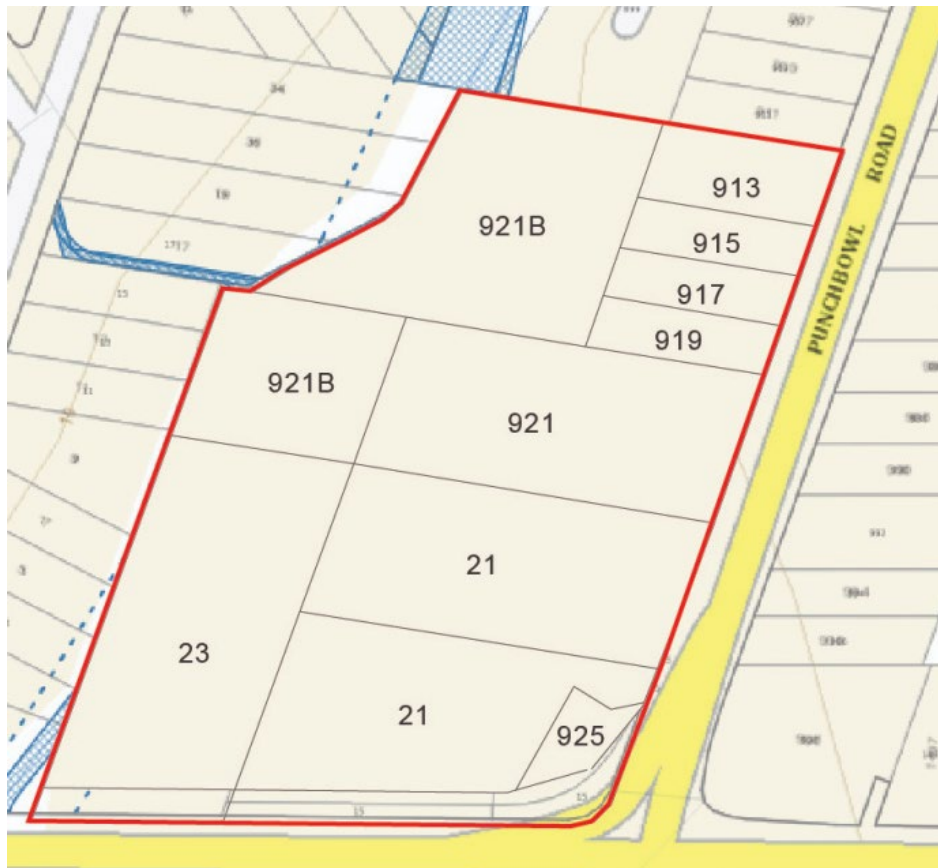


Figure 10. Existing Additional Permitted Uses map.

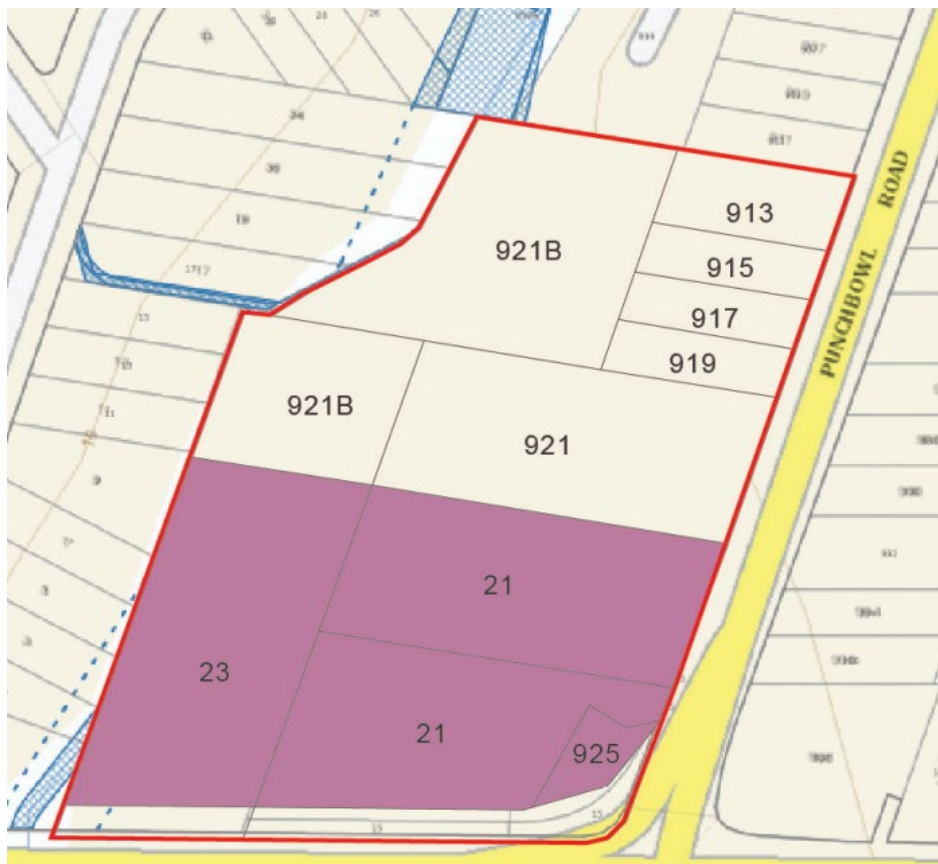


Figure 11. Proposed Additional Permitted Uses map.

#### 4. POLICY AND ASSESSMENT SUMMARY

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

- Greater Sydney Region Plan.
- South District Plan.
- State Environmental Planning Policies.
- Section 9.1 Ministerial Directions.
- Council's *Local Strategic Planning Statement 'Connective City 2036'*.
- DPHI's Local Environmental Planning (LEP) Making Guideline (August 2023).

As discussed in Section 5 below and detailed in the Applicant's planning proposal provided in Attachment A, Council's assessment of the proposed amendments to the CBLEP 2023 indicates the application demonstrates strategic and site-specific merit as it will:

- Provide a total of 334 dwellings, including 322 apartments and 12 multi-dwelling housing aligning with the Council's LSPS intent to deliver a diverse range of residential accommodation in identified centres, contributing to the 50,000 new dwellings expected for delivery in the LGA by 2036. The site is identified in the LSPS to provide for shop top housing in a village centre, which the proposal seeks to deliver.
- Deliver a new registered club on the site increasing its GFA to 1,585m<sup>2</sup> and provide approximately 1,980m<sup>2</sup> in additional commercial GFA. This will contribute to the target of 15,649 retail jobs by 2036 as identified in the LSPS (p50) and Employment Lands Strategy (p99).
- Deliver traffic and transport improvements through the Canterbury Road and Punchbowl Road intersection upgrades to be carried out as part of a Planning Agreement. These upgrades also include increased pedestrian safety through traffic light upgrades and the construction of a pedestrian refuge island on Punchbowl Road.
- Significant increased deep soil planting on the site facilitating a range of new landscaping and tree planting to support endemic ecological communities.
- Introduce new publicly accessible open spaces and a new playground for the community to partake in a range of passive and active recreational activities.

The strategic and site-specific merit of the proposal is able to be met subject to implementing the recommendations of this report and as follows in Section 5. The planning proposal prepared by the proponent and reviewed by Council Officer at Attachment A provides a detailed assessment against all relevant strategic and site-specific criteria.

## 5. ASSESSMENT

### 5.1 Consistency with Strategic Planning Framework

#### 5.1.1 Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan was released by the former Greater Sydney Commission in March 2018. It provides a 40-year vision for the Greater Sydney area and is designed to inform district and local plans and the assessment of planning proposals.

The Greater Sydney Region Plan identifies several key objectives around the need to ensure communities are healthy, resilient and socially connected – while improving housing supply to all groups in the community. The proposal will facilitate diverse housing options, enhance an existing club which plays an important role in the local community and increase commercial floorspace.

The planning proposal is consistent with several planning objectives in the Plan. These include:

- Objective 7: Communities are healthy, resilient and socially connected;
- Objective 8: Greater Sydney's communities are culturally rich with diverse neighbourhoods
- Objective 10: Greater housing supply
- Objective 11: Housing is more diverse and affordable
- Objective 12: Great places that bring people together
- Objective 30: Urban tree canopy cover is increased
- Objective 31: Public open space is accessible, protected and enhanced, and
- Objective 35: More waste is re-used and recycled to support the development of a circular economy.

#### 5.1.2 South District Plan

The former Greater Sydney Commission released the South District Plan on 18 March 2018 to give effect to the Greater Sydney Region Plan. The South District Plan contains priorities and actions to guide the development and planning of the South District – while improving its social, economic and environmental assets.

The proposal achieves consistency with the following South District Planning Priorities:

- Planning Priority S4 – Fostering healthy, creative, culturally rich and socially connected communities
- Planning Priority S5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport
- Planning Priority S1 – Protecting and improving the health and enjoyment of the Districts waterways
- Planning Priority S3 – Increasing urban tree canopy cover and delivering Green Grid connections
- Planning Priority S4 – Delivering high quality open space



The planning proposal's aim to facilitate the redevelopment of the site will provide additional housing with a mix of typologies such as apartments and multi-dwelling housing (terraces). The development will increase opportunities for social interaction on the site through the redevelopment of the existing club and publicly accessible recreation areas as well as contribute economically to the locality by increasing retail floorspace.

The application will facilitate the delivery of affordable housing, dedicating 5% of the overall residential development or an equivalent monetary contribution. It is noted the duration of the dedication of affordable housing is yet to be negotiated and will form part of the Planning Agreement, with Council Officers' intent to require the affordable housing dedication to be in perpetuity or an equivalent monetary contribution. In relation to housing choice, the proponent's concept development proposal shows that the site would be capable of providing a mix of residential flat buildings, shop top housing and medium density development, each with a mix of studio/1-, 2- and 3-bedroom dwellings. The proposal is expected to deliver 334 new dwellings in total, including 322 apartments and 12 multi-dwelling housing. This will contribute to Council's target of 50,000 new dwellings within the LGA as identified in the South District Plan and Council's Housing Strategy.

In its current form, the site is significantly lacking in deep soil landscaping and tree canopy, with the majority used as an at-grade car park and club buildings. The planning proposal and associated site specific DCP development will result in substantial improvements through the increase and enhancement of landscaping throughout the site, establishing high quality open spaces for public access and resident usage. The concept development proposal would deliver approximately 5,797m<sup>2</sup> of deep soil landscaping, equating to 29% of the total site area. These areas will have capacity to host large and medium sized trees, increasing the urban tree canopy cover and reducing the urban heat island effect. Further landscaping will be provided over podiums and as roof top gardens, although not contributing to the overall deep soil area, will nevertheless provide increased amenity for residents and the general public and opportunities for microclimate and local habitat for birds and insects.

The site is well connected to existing and future public transport infrastructure that will serve the future residents and visitors to the club. The site is located approximately 1.8km from the Bankstown Strategic Centre, 1.2km from Punchbowl train station (to become a future Metro Station) and is well serviced by the 487 (Bankstown Central to Canterbury) and N30 (Macarthur to Sydney Town Hall, night service) bus routes which pass by the site on Canterbury Road. Bus stops are located directly adjacent to the site as well as further along Canterbury Road in both directions within 200m.

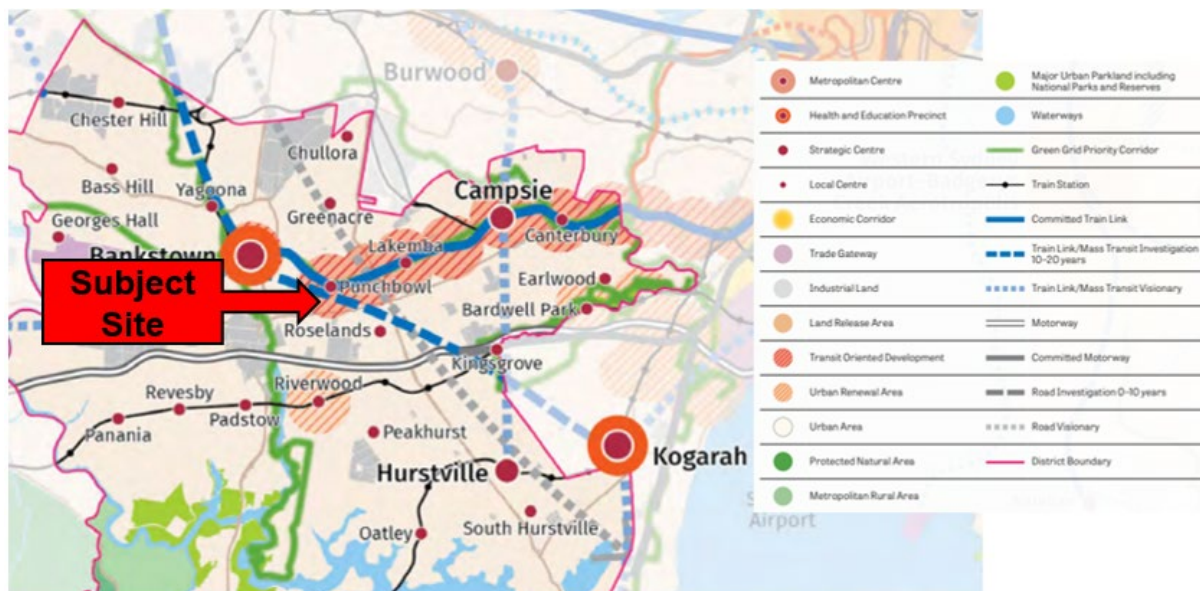


Figure 12. Structure Plan for the South District. Location of site outlined in red (Source: South District Plan, page 11).

### 5.1.3 Local Strategic Planning Statement – ‘Connective City 2036’

The southern part of the site is identified in the Council’s LSPS as a ‘village centre’, which encourages mixed housing typologies and uses to support a small centre. The proposal will provide for a mix in housing types while also ensuring the delivery of small-scale commercial uses, through the inclusion of retail floor space. The redevelopment of the site with a new club facility will also contribute to vibrancy and activity.

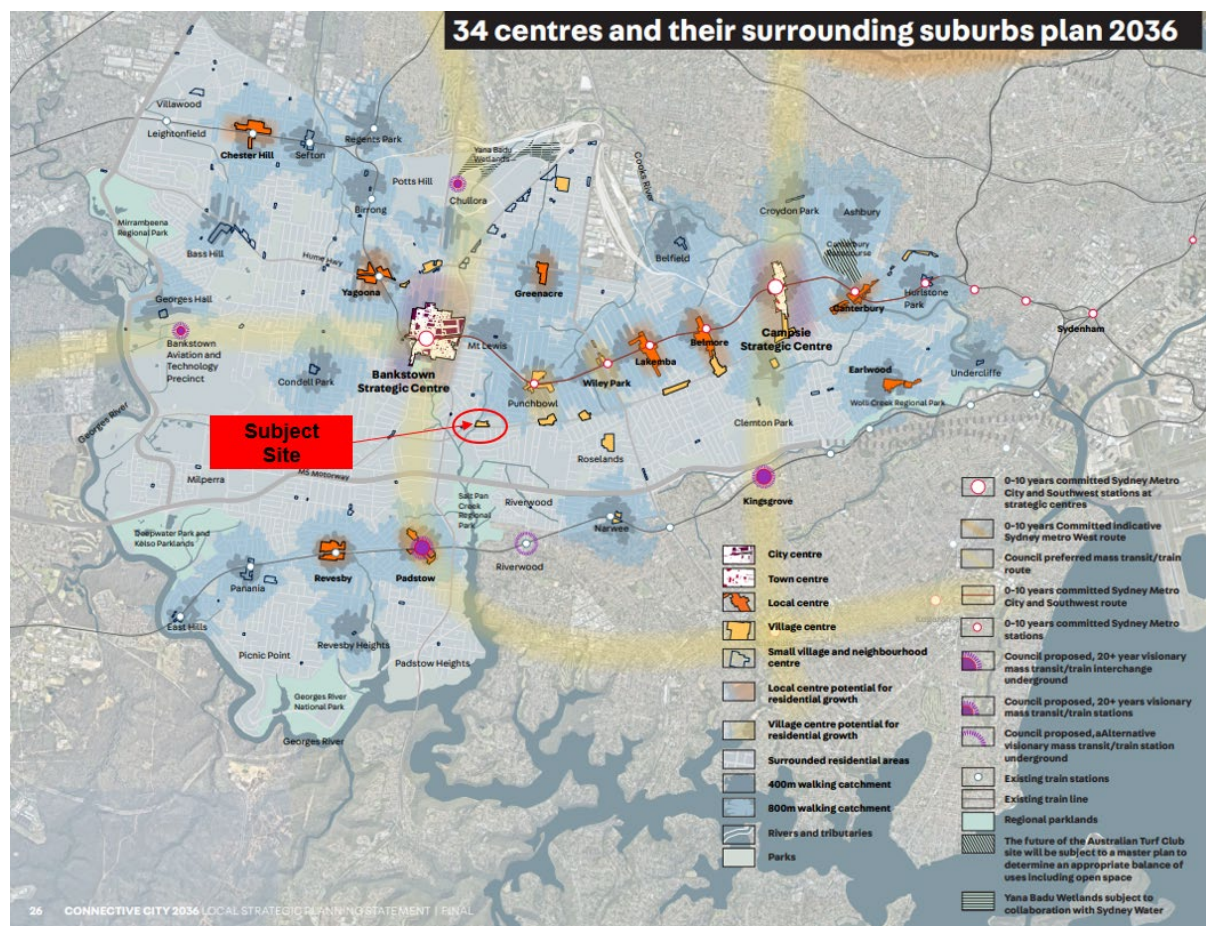


Figure 13. The LSPS ‘Connective City 2036’ plan showing the location of the site in red. (Source: Connective City 2023, page 26).

The planning proposal is consistent with Council's LSPS and will make an important contribution towards achieving Council's housing target of 50,000 dwellings by 2036. In determining the appropriateness of housing locations and delivery, the LSPS provides key principles to guide this decision. The proposal is consistent with the following relevant principles:

- Locate 80% of new housing within walking distance of mass transit/train stations.  
The site is well serviced by two bus routes which provide access to the train stations Bankstown, Canterbury and Riverwood, all located directly adjacent the site on Canterbury Road and Punchbowl Road. The site is also located 1.2km south from the Punchbowl train station which is approximately a 20-minute walk.
- Promote a mixture of uses in centres that support the functioning of everyday life including employment, recreation, civic, commercial, health and educational requirements.  
The proposal includes the refurbishment of the existing club and inclusion of retail floor space providing for increased employment opportunities. The proposal will allow for three new publicly accessible open spaces each with different activities to promote a mixture of uses such as a playground, large, grassed areas and sheltered seating.
- Coordinate housing delivery and infrastructure planning.  
As part of the proposed draft Planning Agreement, improvements to pedestrian crossings and safety features on Punchbowl and Canterbury Road will be delivered to manage the increased housing capacity for this site. Furthermore, the development will attract section 7.11 and 7.12 development contributions which will fund further infrastructure improvements throughout the LGA.
- Set planning rules that deliver quality design and feasibly deliver investment in new development.  
The planning proposal will be supported by a site-specific development control plan (DCP) and Planning Agreement which will detail design requirements and inform the delivery of benefits to the community.
- Provide housing choice to suit each life stage through a range of housing typologies, sizes, and tenures.  
The proposal facilitates the delivery of housing through apartment style, shop top housing and medium density dwellings each with a mix of sizes and bedrooms. The proposal also allows delivers adaptable and accessible dwellings to ensure each life stage is accommodated for.
- Provide affordable housing typologies especially for very low-, low- and moderate-income households.  
The proposal dedicates 5% of the total development as affordable housing, or with an equivalent monetary contribution, which will form part of the Planning Agreement. This agreement is still open for negotiation therefore the duration and specific aspects of this dedication has yet been finalised. A draft Planning Agreement will be made available for exhibition.

- Lead with place-based and design-led planning to inform change.

The proposal demonstrates place-based and design-led planning through its incorporation of the club with residential and retail uses while also ensuring a mix of open spaces including a playground outside the club for public use, a large open space to the west for passive recreation uses and active frontages that encourages pedestrian activity and movement through and around the site. The future site specific DCP will require the provision of new deep soil planting to provide increased tree canopy in comparison to the existing minimal tree canopy on the site. The proposal has balanced the non-residential and residential uses in a logical way that will lead to a quality place-based planning outcome.

In addition to the abovementioned principles, the planning proposal is consistent with the following key relevant LSPS objectives, which will be further guided through proposed LEP and DCP controls:

#### Evolution 3 – Places for Commerce and Jobs

- E3.8. Enhance local economic activity in centres and suburban areas.
- E3.8.76. Review corner shop controls to allow for outdoor dining flexibility for small-scale local investment.
  - *Comment:* Investigations into appropriate DCP controls will determine if the site can accommodate for corner shop uses. Outdoor dining controls will be implemented to encourage active uses within the B1 zone.

#### Evolution 5 – Green Web

- E5.6. Provide equitable access to open space.
- E5.7. Increase native vegetation and tree canopy cover.
- E5.9. Embed Aboriginal cultural heritage within the Green Web
  - *Comment:* At the time of lodgement and initial assessment, the applicant had not provided an Aboriginal Cultural Heritage (ACH) assessment. This has been requested and will be provided prior to exhibition and the site specific DCP will require a detailed ACH at DA stage, in accordance with the Government Architect NSW 'Connecting with Country Framework'. Notwithstanding, the proposal has the capacity to meet this objective.
- E5.12. Create diversity in open/public space character types.
- E5.13. Expand the City's indigenous plant and animal ecologies.
  - *Comment:* Tree and plant species will be included as a control in the future site-specific DCP.

#### Evolution 6 -Urban and Suburban Place, Housing the City

- E6.3. Improve design quality throughout the City.
- E6.10. Provide housing that suits the population.
  - *Comment:* The LSPS has 'An aspirational growth split of 20% of housing in suburban areas and 80% in centres. This target is addressed by the proposal as it is located in a designated 'Village Centre' in the LSPS (as shown in Figure 13).
- E6.11. Affordable and social housing
- E6.12. Ensure housing growth is supported by infrastructure and funding.



## Evolution 9 – Sustainable and Resilient Places

- E9.4. Increase tree cover.
- E9.6. Manage energy, water, and waste efficiently to support more resilient and liveable communities.
- E9.7. Provide sustainability features to all housing.
- E9.8. Ensure waste works with building and streetscape design.
- E9.9. Concentrate housing close to public transport.
- E9.10. Support a locally based circular waste economy.
- E9.11. Optimise water conservation and re-use by adopting water sensitive urban design.

### *5.1.4 Canterbury Bankstown Council Housing Strategy*

In June 2020, Council endorsed the Canterbury Bankstown Housing Strategy which provides clear guidance on the expected delivery of future dwellings to 2036, allowing Council to plan forward and ensure the required public infrastructure to support the population is provided. The Housing Strategy includes housing delivery framework, which will assist in determining housing is proposed in the correct locations and at the right mix. Overall, the intent and vision of the Housing Strategy is to provide a mix of housing types and concentrates larger developments in areas that can accommodate jobs and services for its residents.

The Housing Strategy identifies the site as a village centre and recommends housing types such as low-rise medium density, dual occupancies, secondary dwellings and detached dwellings.

Hierarchy	center
City Centre	Bankstown
Town Centre	Campsie
Local Centre	Canterbury, Belmore, Lakemba, Padstow, Revesby, Chester Hill, Greenacre, Yagoona, Earlwood
Village Centre	Punchbowl, Wiley Park, Canterbury Road-Hurlstone Park, Canterbury Road-Campsie, Canterbury Road-Belmore, Canterbury Road-Lakemba, <b>Canterbury Road-Punchbowl</b> , Narwee, Clemton Park, Yagoona-Hume Highway/Rookwood Road
Small Village Centre	Bass Hill, Regents Park, Georges Hall, Condell Park, Hurlstone Park, Birrong, East Hills, Belfield, Croydon Park, Sefton, Panania

Figure 14. Centre Hierarchy identified for growth under the Housing Strategy, page 108.

While the planning proposal includes higher density types of residential accommodation that falls outside the abovementioned typologies, the Housing Strategy also identifies the suburb of Punchbowl as having potential for infill development and notes these village centres have the capacity to house 9,100 new dwellings by 2036. Subject to appropriate design, the site provides a unique opportunity to deliver around 334 dwellings towards this target. The planning proposal is considered to meet the overarching objectives of the Housing Strategy. The scale of the development that would be enabled by the planning proposal is also commensurate with the maximum FSR of 2.5:1 and 6-9 storey development under the Canterbury Road Review (p29).

### 5.1.5 Canterbury Bankstown Council Affordable Housing Strategy

In June 2020, Council adopted the Affordable Housing Strategy which seeks to reduce the level of housing stressed experienced across the LGA. Punchbowl is identified as the second highest suburb in the LGA with around 45% of the population experiencing housing, rental, and mortgage stress.

As part of a Letter of Offer, the applicant has identified 5% of the overall development will be dedicated as affordable housing, which is consistent with Council's Planning Agreement Policy, however noting that Council will include the option for a monetary contribution to be made. If dedication occurs, Council will require the affordable housing to be dedicated to Council in perpetuity.

### 5.1.6 Canterbury Bankstown Canterbury Road Review

In May 2018, Council adopted 'in principle' the Canterbury Road Review, which established a new approach and vision for development along the Canterbury Road corridor. The review recommended mixed-use development in identified nodes, as residential units have the capacity to be designed in a way that increases amenity for residents, such as:

- Orientate residential development north providing a 'noise barrier' building typology.
- Fewer potential impacts on single dwellings, and
- Better access to services, public transport, and future open space.

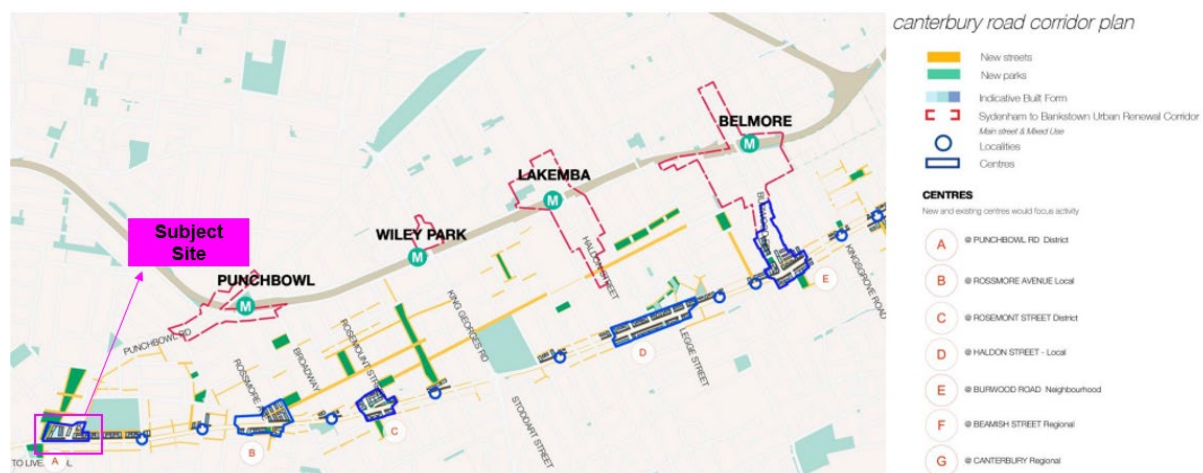


Figure 15. Canterbury Road Corridor Plan. Source: Canterbury Road Review, page 23.

As outlined above in Figure 15, the site is located within an identified 'centres' node where the centre, straddling the west and eastern sides of Punchbowl Road, would accommodate a mix of development ranging up to 9 storeys in height. The planning proposal includes a corner 'marker' building with a maximum of 11 storeys and the remaining buildings sitting behind to the north being nine storeys or less. The proposed heights are therefore considered to be generally reflective of the vision for the centre in the Canterbury Road Review.

The proposal includes a 6m setback from Canterbury Road, as measured from the future road widening identified by TfNSW, which will allow for adequate planting and tree canopy coverage and provides a physical separation from the busy roadway. Overall, the proposal aligns with the objectives of the Canterbury Road Review as it has adequately considered the impacts of Canterbury Road and any future residential development can be designed to ensure high amenity for its future residents, to be detailed in the Development Application.

#### *5.1.7 Canterbury Bankstown Council Employment Lands Strategy*

The Canterbury-Bankstown Employment Lands Strategy provides the basis for a planning framework that proactively guides future growth and support the delivery of employment to the Canterbury-Bankstown LGA. The site is not specifically identified in the ELS as a designated precinct that should be subject to site-specific employment lands requirements. However, Aim 9 of the ELS applies to village centres and aims to ‘Support population serving centres as community hubs for small business’ by implementing the following Actions:

- The location of new housing growth to foster growing retail catchments.
- Providing sufficient zoned land to allow business to expand as needed.
- Encouraging a variety of floorplate sizes for a diversity of employment
- Encouraging innovation such a flexible and We Workplaces, and
- Improving the amenity of centres – so that they are vibrant attractive places where people enjoy spending time.

The planning proposal and concept development scheme developed for the site, along with the site specific DCP that will be prepared by Council will ensure there are planning controls in place to facilitate development that can achieve these outcomes.

#### *5.1.8 NSW State Government Employment Zones Reform*

In May 2021, DPHI proposed to replace the existing business and industrial (IN) zones with five employment zones and four supporting zones under Standard Instrument (Local Environmental Plans) Order 2006. The reform was finalised in December 2021 and Canterbury Bankstown Council is required to implement the new industrial and employment zones by April 2025.

DPHI developed and finalised the employment zones based on quantitative and qualitative evidence to:

- maximise productivity while minimising land use conflicts and ensuring they are fit for purpose
- address current barriers within the planning system that limit the ability of businesses to establish, expand or adapt, and
- better support councils in the delivery of the strategic vision contained in their Local Strategic Planning Statements and background studies.

At its meeting on 4 March 2024, the LPP considered a draft planning proposal to amend the CBLEP 2023 to amend all existing business and industrial zones in accordance with the Stage Government led changes. Council is yet to exhibit the proposed employment zones reform changes – this will be considered in the future by a separate planning process as initiated by Council. As detailed in the March 2024 LPP report, it is intended that the intent of the B1 Neighbourhood Centre zoned portion of the site will remain the same size and shape and is proposed to transition to the new E1 Local Centre zone upon implementation of the new zones reform framework in the CB LEP 2023.

## 5.2 Urban Design Considerations

### 5.2.1 Built form Testing and Alternative Scenarios

The planning proposal has been revised since its lodgement with Council in response to Council’s assessment. Council’s key issues with the initial as-lodged development concept in relation to urban design considerations were as follows:

- More building height variation and definition for the corner building
- Inconsistencies and non-compliance with the Apartment Design Guide (ADG) in relation to setbacks, solar access, and ventilation
- Deep soil calculations do not meet the minimum required width of 6m.
- Some communal open space areas did not appear to be practical due to proposed locations of onsite detention basins and playgrounds underneath powerlines.
- Buildings that lacked in variation regarding floor plate size, design, and orientation
- Poor visual connection from Canterbury Road to the proposed public open space at the centre of the development, and
- Inconsistencies between the Landscape Plan and the Architectural Plans especially in relation to tree planting within the land reservation area on Canterbury Road

Working with the applicant, Council developed three iterations of the initial development scenario to address the abovementioned issues. The summary of how the initial development scenario was improved is presented below in Table 3 . It is also noted the inclusion of 23 Canterbury Road was investigated as part of Scenario 3 and is discussed in section 4.2.2 below and that site has been included as part of the planning proposal.

*Table 3. Built form testing scenario analysis.*

	Scenario 1	Scenario 2	Scenario 3
Evaluation	Council’s initial scenario provided in an additional information letter (Figure 16)	Applicants response to Scenario 1 (Figure 17)	Council’s preferred scenario – this planning proposal (Figure 18 & 19)
Pros	<ul style="list-style-type: none"> <li>• Pedestrian connection directly from Canterbury Road</li> <li>• Location of roundabout does not significantly decrease landscaping opportunities.</li> <li>• High pedestrian permeability</li> </ul>	<ul style="list-style-type: none"> <li>• Improved built form through carrying building heights and definition of the corner building.</li> <li>• Lower density on the Punchbowl Road interface</li> <li>• Good transition to the lower density</li> </ul>	<ul style="list-style-type: none"> <li>• Provides the most deep soil and canopy tree coverage. Deep soil equates to 42% of the total site area with 22% canopy coverage achieved.</li> <li>• High permeability achieved with the provisions of through-site links connecting pedestrians and</li> </ul>



	Scenario 1	Scenario 2	Scenario 3
	<ul style="list-style-type: none"> <li>• Ample opportunity for podium open spaces on club building</li> <li>• Good building height variations which gradually reduce towards the north</li> <li>• Increase landscaping.</li> </ul>	<p>dwellings to the north</p> <ul style="list-style-type: none"> <li>• ADG compliant building separation and setbacks</li> <li>• More variation in building typologies</li> </ul>	<p>residents to open space.</p> <ul style="list-style-type: none"> <li>• Bulk and scale is minimised through varying building height across the built form</li> <li>• ADG compliant building separation and setbacks</li> <li>• Waste management is simplified due to consistent built forms (i.e., basements below service the residential flat buildings and the townhouses via kerb side collection).</li> <li>• Retains the initial</li> </ul>
Cons	<ul style="list-style-type: none"> <li>• FSR is less than what was initially proposed which may not be economically viable.</li> <li>• The pedestrian connection from Canterbury Road opens the public open space to noise impacts which will reduce amenity.</li> <li>• Higher density due to the retention of the residential flat building facing Punchbowl Road</li> </ul>	<ul style="list-style-type: none"> <li>• Waste management becomes more complicated with the basement servings residential flat buildings and townhouses.</li> <li>• The roundabouts are unnecessary and removes opportunities for landscaping.</li> <li>• Decreased pedestrian permeability throughout the site</li> </ul>	<ul style="list-style-type: none"> <li>• Higher density due to the retention of the residential flat building facing Punchbowl Road</li> </ul>



Figure 16. Scenario 1: Council's initial scenario provided in an additional information letter.

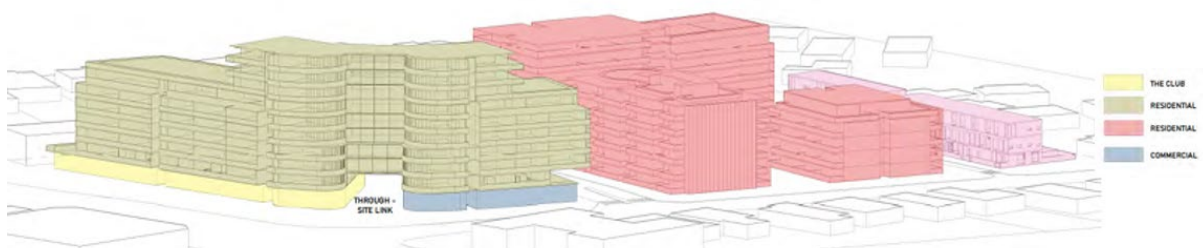
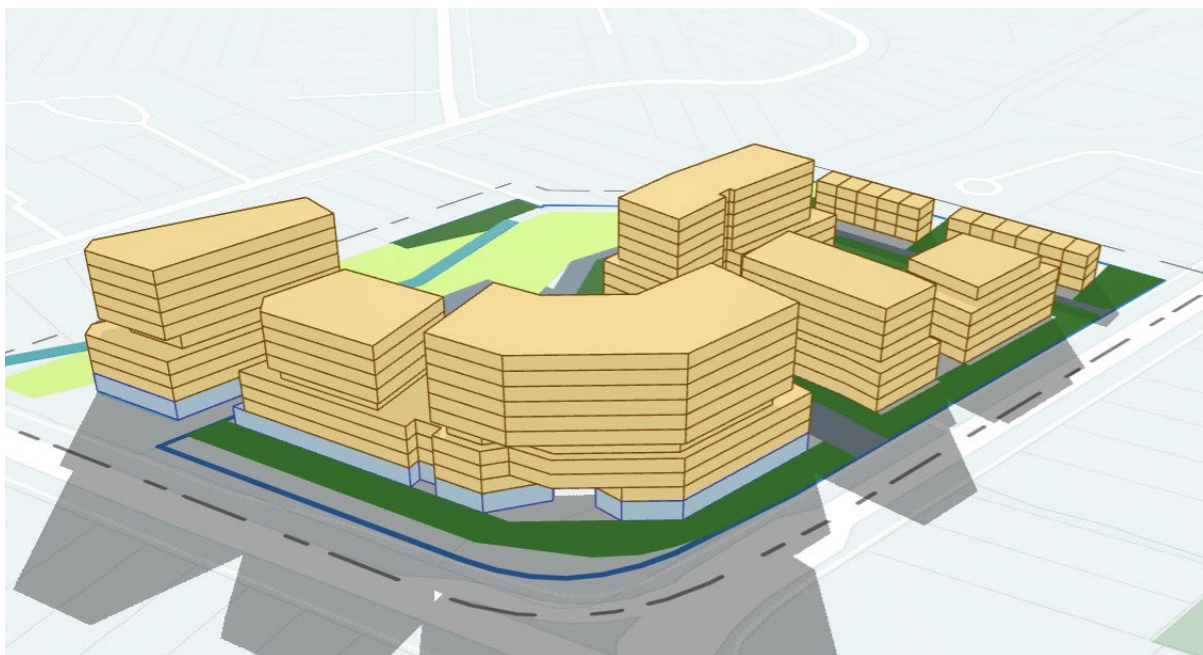


Figure 17. Scenario 2: Applicants response to Scenario 1



Figure 18. Scenario 3: Council's preferred scenario with statistical comparison.



*Figure 19. Scenario 3: Council's preferred scenario.*

Council's preferred scenario (Scenario 3) shown above is based on the following design criteria:

- Ground floor commercial: 4.4m floor-to-floor height
- Residential floor levels: 3.2m floor-to-floor height, and
- 2m height to account for lift over-run as shown in grey (see Figure 20).



*Figure 20: Scenario 3: Council's preferred scenario, viewed from the north west, showing maximum building heights (grey shading on the top of the buildings is a 2m mechanical plant height allowance).*

As mentioned in Section 2 of this report, the site was subject to a previous planning proposal in 2017. As part of that assessment, Council engaged with an urban design expert, Architectus, to perform an Urban Design Peer Review of the proposed scheme. Their recommendations are outlined below in Figure 20.



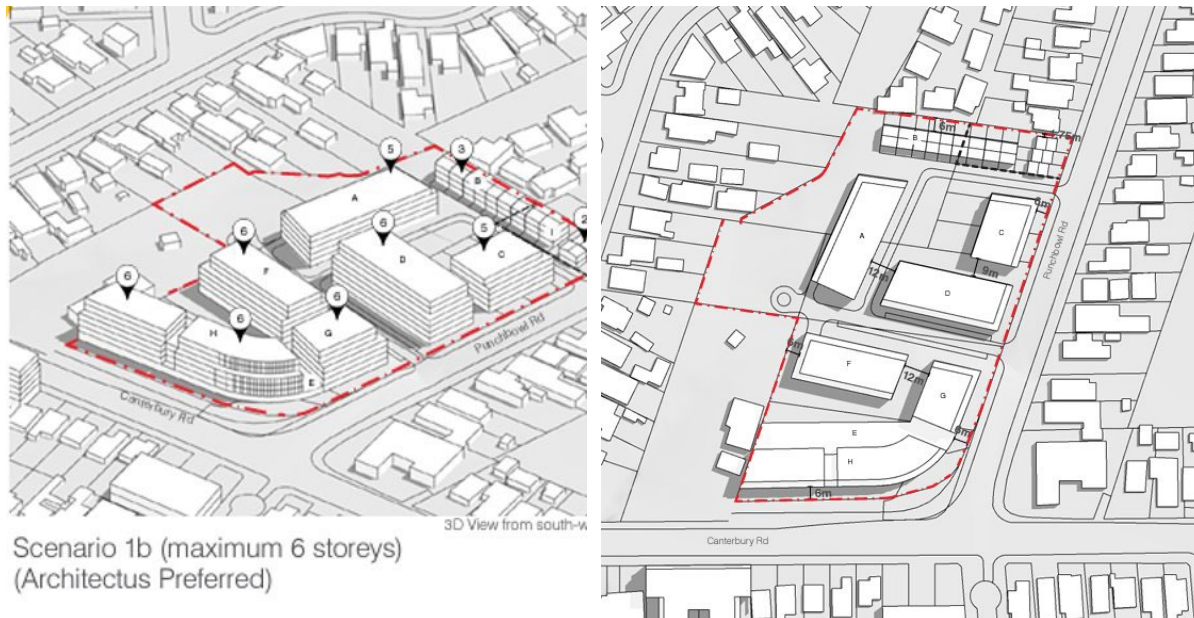


Figure 21. Architectus Scheme for the 2017 planning proposal.

Council's preferred Scenario 3 further enhances and improves on the recommended Architectus scheme by incorporating the following:

- More public open space
- More opportunities for landscaping and tree canopy
- Offers a more interesting building design including treatments to the corner building that highlights this site as a gateway site and provide improved building articulation
- Higher pedestrian permeability including a pedestrian through site link from the south eastern corner of the site at the Punchbowl Road/Canterbury Road intersection
- Varies building heights, and
- Offers more amenity to the northern townhouses in particular the easternmost terraces by removing the terraces fronting to Punchbowl Road.

Further to the above, Scenario 3 fully considers the planned road widening and land acquisition on Canterbury Road. A setback of 8m excluding the road widening is provided which can accommodate significant tree planting without being impacted by future works. The applicant has provided an urban design analysis in response to Scenario 3 which is attached to this report in Attachment O.

### 5.2.2 Inclusion of 23 Canterbury Road

Council identified during the assessment process the inclusion of the adjoining site at 23 Canterbury Road. Both Council and the applicant undertook an urban design review to ascertain the developable area and how the site can be integrated with the development on the former 'Club Punchbowl' site. Figure 22 outlines the area of 23 Canterbury Road that would be able to be developed.

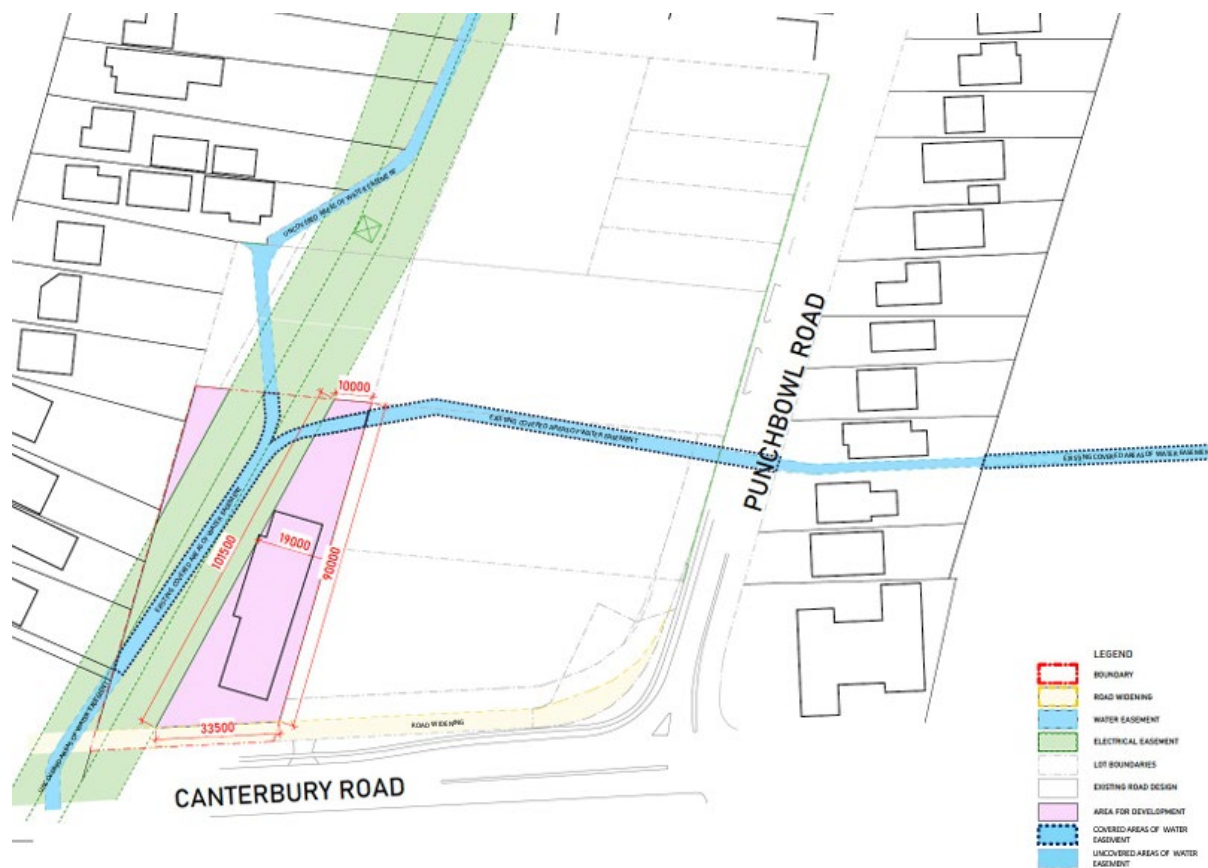


Figure 22. Developable area, as outlined in pink, and site constraints for 23 Canterbury Road.

It is understood based on feedback from the applicant, that attempts have been made by the landowners of the development site to acquire 23 Canterbury Road however, these has been unsuccessful. Notwithstanding, the intent of including this site ensures a holistic approach to the planning proposal and addresses the planning for this key intersection as a precinct as identified in the Canterbury Road Review and a village centre under Council's LSPS.

The investigation of this site identified an opportunity to improve the outcome of the planning proposal and promote good design outcomes. Council will produce draft site-specific development controls that will encourage future development for this site prior to the exhibition of this planning proposal.

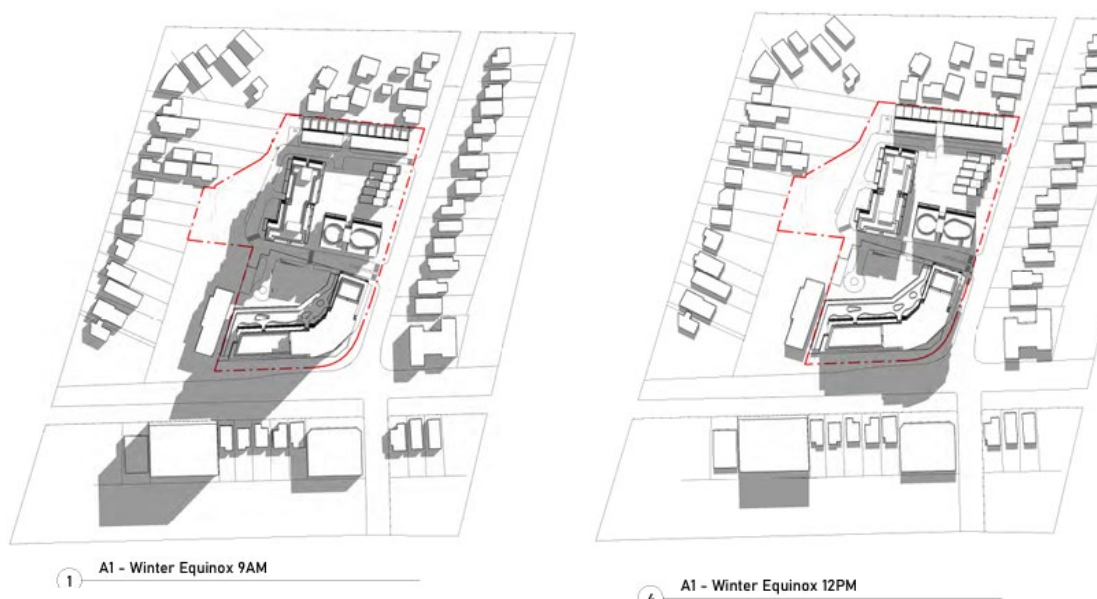
### 5.2.3 Solar Access Impacts

The site is orientated to the north and south with low density residential dwelling of 2 storeys to the north and east, a bulky materials storage use to the east and higher-low density to the south of Canterbury Road. The proposal seeks a maximum building height of 29 metres on the corner of Punchbowl Road and Canterbury Road facing southeast, comprising approximately 9 stories. Elsewhere on the site, the maximum height varies between 25 metres and 11 metres, transitioning to the low-density residential typology adjoining the site to the north.

The applicant has provided solar access impact analysis which is held in Attachment A. The relevant figures are provided below in Figure 23. Due to the site's location on the corner of two major road intersections, the overshadowing impacts to the adjoining residential dwellings to the south and east will be limited with the majority of overshadowing occurring within the front setbacks and road carriageways. The adjoining property at 23 Canterbury Road is currently a non-residential use however, the site will still achieve over 3 hours of continuous solar access during the winter equinox (June 21).

In relation to internal solar access, the site has the capacity to provide for a minimum of 2 hours of direct sunlight to 70% of all residential units in mid-winter as per the Apartment Design Guide (ADG). Currently, there are a few of instances where it is unclear if some of the apartments, particularly those that are south facing, can achieve the required 2 hours solar access to 70% of apartments under the ADG. This matter will be resolved prior to exhibition of the planning proposal and addressed through DCP controls as required.

It is proposed that the site specific DCP to be exhibited concurrently with the planning proposal, where practical, will include detailed building controls such as minimum setbacks and building separation distances for all building levels to ensure acceptable solar access is achieved within the site and to adjoining properties to the south and east of the site. This approach will maintain the integrity of the vision for the site, while providing certainty for the community that an increase in building height will not have a detrimental impact on the amenity of the surrounding locality or the future occupants of the site.



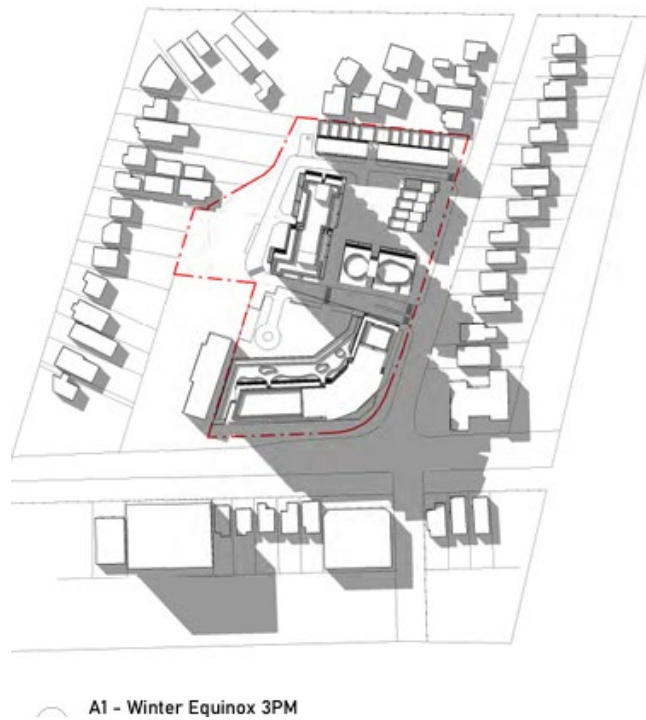


Figure 23. Shadow diagrams for 21 June at 9am, 12pm and 3pm. Source: Architectural Plans, page 56.

#### 5.2.4 Building Height Control and Transition to adjoining area.

The site is located in a 'node' on the corner of Canterbury and Punchbowl Road as included in the Canterbury Road Review (the Review). The Review envisages 'nodes' to be the focus of development and additional built form to reinforce connective streets critical to linking Canterbury Road to the surrounding area in the north.

The nodal approach has been adopted in the Canterbury Road Review, which seeks to cluster taller buildings signifying the entrance to a centre. The corner of Canterbury and Punchbowl Road is the entrance of the suburb of Punchbowl and its town centre is accessible 1km north along Punchbowl Road. The proposal is consistent with the nodal approach established in the Review as it will maintain the intention for a transition in building heights stepping down from the corner and to the north. This is achieved by the corner building achieving a 11-storey built form envelope, transitioning to eight, seven and five storeys before it reaches the northern three storey terraces in the north (Figure 24).

In order to accommodate a two storey through-site link from Canterbury Road, additional height allowances were considered appropriate to emphasise the gateway status of the site. Analysis and testing of this additional height demonstrated it would not have any additional overshadowing impacts on adjoining southern and eastern properties. It is intended that the site specific DCP will include minimum building setbacks and articulation for the buildings to ensure an appropriate built form outcome.





Figure 24: 3D model showing the recommended development scheme scenario, viewed from the north west

### 5.2.5 Floor Space Ratio

The proposal seeks to achieve the following FSR:

- B1 Neighbourhood Centre zoned portion
  - Total proposed GFA: 15,710m<sup>2</sup>
  - Total FSR: 2.0:1
- R4 High Density Residential zoned portion
  - Total proposed GFA: 16,410m<sup>2</sup>
  - Total FSR: 1.3:1

These maximum FSRs in conjunction with the maximum building heights between 11m – 29m will help guide the transition of height and scale from the proposed development to the existing lower scale and lower density development to the north and east on Punchbowl Road. The site-specific DCP will be supported by controls not limited to, building setbacks, building articulation, streetscape, landscaping and tree canopy and desired future character context requirements that will complement the objectives of Clause 4.4 – Floor Space Ratio of the CB LEP 2023. These controls will ensure the overall bulk and scale of the development is appropriate in the context of its surrounds, maintaining amenity for adjoining sites.

It is noted that the maximum FSR is not ‘as of right’, and any future development application must demonstrate how future development on the site does not result in an unreasonable adverse environmental impact on adjoining land and the surrounding area.



### 5.2.6 Site specific provision for site consolidation

At the 4 September 2017 Independent Hearing and Assessment Panel (IHAP), it was recommended to remove any site-specific provisions relating to site consolidation to achieve the proposed increased FSR. Despite this recommendation, Council resolved to pursue its retention as it would ensure that the resulting gross floor area is distributed over the consolidated site instead of potentially allowing dense developments in the existing small allotments, where the smallest allotment is currently 588m<sup>2</sup>.

The proposed FSR of 1.3:1 on a small allotment would lead to undesirable outcomes, such as compromised building setbacks to adjoining low density residential properties, and vehicle manoeuvring problems in the basement carpark. On this basis, Council seeks to retain this provision with the current planning proposal to solidify good design and planning outcomes.

### 5.3 Additional Permitted Uses

The planning proposal seeks to include 'tourist and visitor accommodation', 'function centres' and 'registered clubs' as Additional Permitted Uses (APU) on the B1 zoned portion of the site. In relation to 'function centres' and 'registered clubs', these uses were permissible under the repealed *Bankstown Local Environmental Plan 2015* however, this has not been carried over into the CB LEP 2023. Considering the history of the former 'Club Punchbowl' club on the site, which has been operating as a function centre as well as a registered club since its founding in the 1980s, and the ownership of the site remains the same with the stated intention for the club to be part of the future redevelopment of the site, the inclusion of these uses as an APU is appropriate.

In relation to including 'tourist and visitor accommodation' as an APU, while the use would not typically be permitted in the B1 Neighbourhood Centre Zone, Council considers the use is appropriate given the prominent site location on the corner of two main roads, the large site area and capacity for vehicle parking and the anticipated jobs expected to be generated as a result within close distance to a large residential area.

It is noted that under the draft E1 Local Centre zoning for the site as part of the Council's draft approach to the NSW State Government employment zones reform, 'function centres', 'registered clubs' and 'tourist and visitor accommodation' are proposed to be permitted with development consent. Should this planning proposal be finalised and gazetted prior to the employment zones planning proposal, the uses will simply transfer to the new E1 zoning. Should the employment zones planning proposal be finalised before this planning proposal, these APUs can be removed from the planning proposal by Council or DPHI prior to finalisation.

### 5.4 Site Contamination

Based on historic aerial photographs, the use of the site has been for the purpose of the existing registered club on the southern side and residential dwellings on the northern side of the site since the 1950s. Prior to that the site appeared to be part of a larger rural residential use. The large concrete car park appeared in the 1970s. There is no evidence at this stage, that any uses occurred on this site that would prevent residential occupation, particularly as part of the site is currently occupied by low density residential development.

The applicant provided a Detailed Site Investigation (DSI) and a Remedial Action Plan (RAP) with the planning proposal. Both reports found there were no significant causes of contamination and recommended precautionary and unexpected finds conditions and RAP concludes *“the site will be suitable for the proposed redevelopment into a new facility for use...subject to the implementation of the remediation and validation works in accordance with this RAP”*. Completion of any required remediation works can be undertaken at the DA stage.

## 5.5 Flooding

The development site is affected by the 1% Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) events. Figures 24 and 25 outline the post-development AEP and PMF flood hazard impacts.

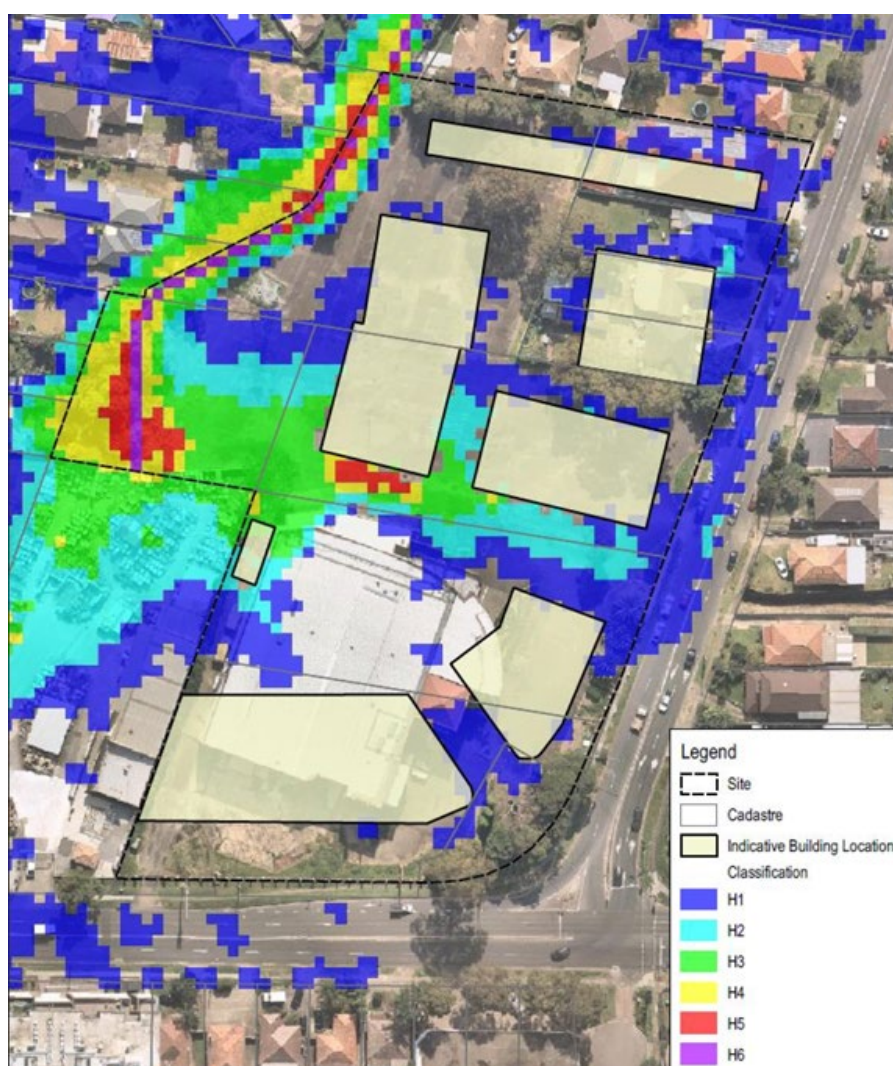


Figure 25. Flood Hazard Categories H1-H6 - Post-development 1% AEP event.

The applicant has provided numerous flood studies and information over the course of the assessment which concludes the subject site is suitable for the planning proposal in relation to flooding. It is noted the bulk of these investigations were performed prior to the release of the NSW Flood Risk Management (FRM) Manual and Toolkits (2023) and the Flood Impact and Risk Assessment (FIRA) FRM Guideline 2023. To confirm the sites suitability against these policies, Council engaged with an independent flood expert (Stantec) to perform a Peer Review of these documents. A full copy of this Peer Review can be found in Attachment Q.

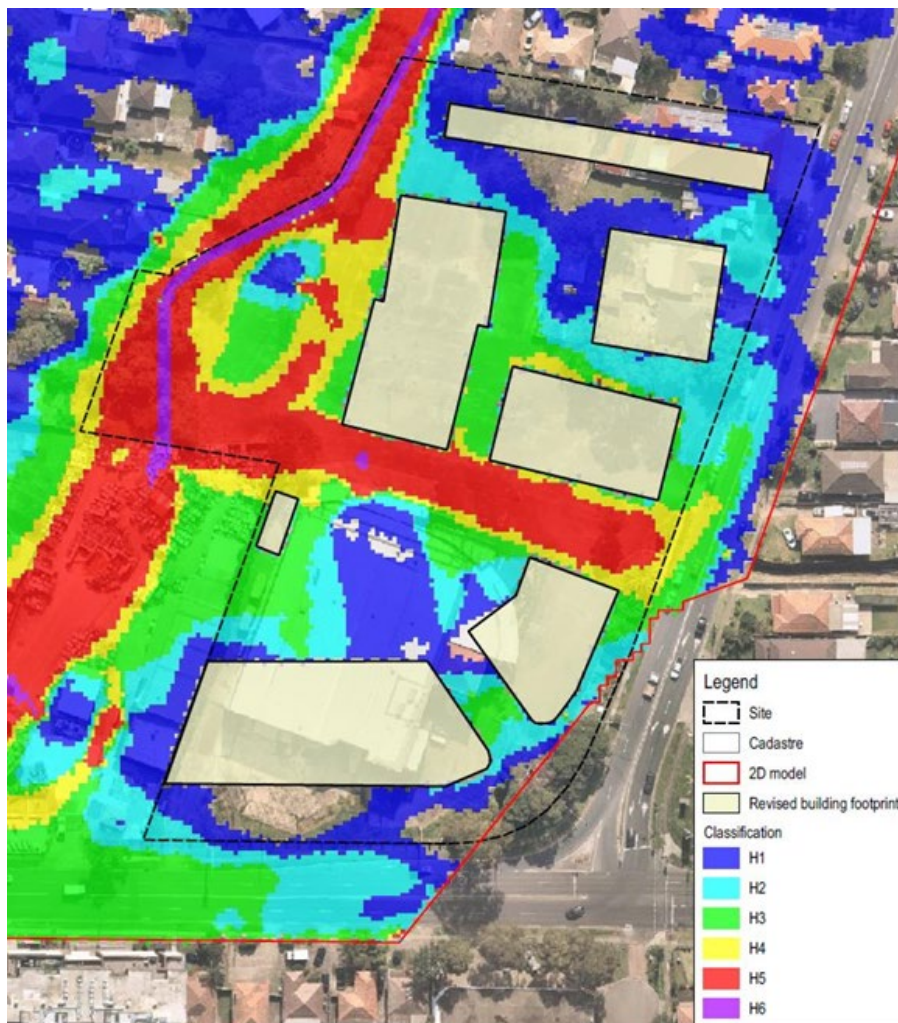


Figure 26. Flood Hazard Categories H1-H6 - Post-development PMF event.

The Peer Review performed by Stantec examined the relevant documents against the planning proposal requirements of the NSW Flood Prone Land Policy, specifically the Ministerial Direction 4.1 Flooding. It is important to note that given the early stages of the development, and the high-level nature of the details required at the planning proposal stage, the requirements of the Ministerial Directions are not to be to the level expected for a development application. The intent of this assessment is to confirm if the development at this high-level is compatible with the flood risk of the site.

In summary, the Peer Review concluded the following:

- Two flood studies are applicable for the site – the Salt Pan Creek Catchments Floodplain Management Study and Plan 2013 (2013 Study) and the Final Overland Flow Study: Canterbury LGA Salt Pan Creek Catchment 2016 (2016 Study). The 2013 Study was based on flood modelling undertaken within the Salt Pan Creek Catchments Flood Study 2009. These studies were commissioned by the previous Bankstown and Canterbury Councils. The site is located on the border of the former LGA boundaries, which as a result has been included in both studies. Notwithstanding, both studies show relatively similar flooding of the site.
- The flooding assessment has been summarised across many reports, letters, and emails over a nearly 2-year span. Stantec recommends the final flooding analysis and conclusions from these reports, be condensed into a single report prior to exhibition.

- The model set-up was found to be appropriate for the purposes of a planning proposal flood assessment. Further refinement of the modelling methodology is to occur in later development stages.
- The current assessment is considered equivalent to a 'simple' FIRA and given the high-level nature of the planning proposal phase; this level of assessment is considered suitable.
- The flood planning levels (FPL) for the development are indicative at this stage and will be confirmed at DA stage. Notwithstanding, DCP controls can be included to require the design of ground floor levels at or above the FPL or PMF, whichever is greater is a suitable approach.
- The proposal includes two basement carpark entries and as per Ministerial Direction 4.1 item 4, the protection of these two basements should be up to the PMF level. It is understood that the proponent and their consultant is accepting of elevating the basement carpark entries up to the PMF level, with the subsequent modelling blocking the basement entry location on the west side of the property to represent the raised entry ramp proposed.
- As noted in the applicant's Flood Emergency Response Plan submitted with the planning proposal, the proposed emergency response is shelter-in-place (SIP). This approach is suitable when the duration of the flooding is less than 6 hours and when flood-free refuge is provided in all events. A summary of the SIP requirements is outlined in the Peer Review and found the proposed development has the capacity to meet the relevant requirements on the basis most flooding will recede from the site within 2.5 hours (refer to s4.5 of the Peer Review).
- A brief flood affectation review of 23 Canterbury Road found that the area noted for possible development (refer to Figure 21 of this report) is suitable in relation to flooding at this stage as the majority of flood prone land is to the west. More detailed information can be provided in the Development Application for the site, including future modelling and blockage analysis.

Overall, the Peer Review found the flood assessment to be consistent with flooding requirements of the Ministerial Direction 4.1, noting that many details of the proposed development will not be known until the proposal reaches the Development Application stage. The current assessment is considered fit-for-purpose for a planning proposal submission. Specific flooding controls relating to the PMF flood impacts on the site can be included as part of the site specific DCP and would relate to the requirement for the basement entrances to be designed to be above the PMF flood level.

## 5.6 Tree Removal

While the site is currently mostly paved to accommodate the existing car park, there are six significant trees on the site, and all will require removal to facilitate the proposal (Figure 26). The applicant has provided an Arborist Report prepared by The Arborist Network, which provides an assessment of these trees and their value. The assessment is summarised below:

*'Initially, it appeared that several of the trees on the northern boundary (trees 2-5) could be retained. However, a closer examination of the plans revealed that these trees would be in the middle of the site, and this may not have been evident to the Council, who evidently inspected the trees from the outside of the site. It is entirely understandable how they may have missed this point.'*



*Tree 1 is growing exceptionally close to the concrete culvert. This, combined with the two major wounds, raises concerns about the merit of going to great effort to retain this tree...The structural issues with both Tree 2 and Tree 5 suggest that their retention may not be the best option, particularly considering the young age of these trees. A better option would be to replace these trees with sufficient new trees to compensate for the canopy loss within a decade or two.*



Figure 27. Existing significant trees on site required for removal. Source: The Arborist Network, page 16.

*'Eucalyptus scoparia is generally a shorter-lived species in the Sydney region, which has been made worse by the Winter Bronzing bug. As a result, I believe trees 3 and 5 do not merit great consideration. When the pruning of these boundary trees is also considered, it seems more appropriate to have long-lived, slower-growing species along this boundary.*

*While the retention of tree 6 seems possible, several issues need to be weighed. The first is the need to interface any new works with the mound. The second issue is the need to repair the boundary fence without causing significant damage to the roots less than 50cm from the base of the tree.'*

Council agrees with the above assessment. It was considered initially the retention of tree 6 was to be enforced however, its location is within the land reservation zone will likely require

removal to make way for the widening of Canterbury Road. The site-specific DCP will include provisions for suitable replacement tree planting and minimum tree canopy coverage requirements, including the recommendations of the Arborist Report:

- Specifying species that are fast-medium growing – the Arborist report makes mention of choosing trees from the Cumberland plans woodlands and identifies species such as *Melaleuca decora*, *Waterhousia floribunda* and *Cupaniopsis anacardiodes*.
- Requiring a specific number of trees such that the tall tree canopy is replenished in 10-20 years
- Establishing conditions that will align with the layout and design of future development on the site to support the growth of trees, and
- Ensuring there is sufficient space during construction and operation to accommodate the size of trees and space required for root systems.

It is likely a set of standard development consent conditions will be produced to enforce further recommendations that are not appropriate to address at this stage. These could include:

- Replacement ratio of 3:1 for faster growing trees and 10:1 for medium growth trees
- If a tree dies, it must be replaced within 90 days with the largest available tree, and
- Tree protection zones must be maintained in perpetuity.

## **5.7 Traffic Generation, Vehicle Access and Parking**

The applicants scheme includes two levels of basement parking for the residential flat buildings and shop top housing and one level of basement parking for the townhouses. The total amount of car parking across the site will be 509 spaces (residential and commercial). Servicing areas and waste collection will occur in these basements except for the townhouses which will include waste collection by a kerb side collection. All vehicle access will be via left-in-left-out movements from Punchbowl Road. This is a requirement by TfNSW as Canterbury Road and Punchbowl Road are State owned roads.

Parking for the existing club will be in the first basement level and drop off bays proposed on the main entry road. Standard roll kerbs will be used to aid in heavy rigid vehicle movements and aid in providing small numbers of street parking while not impeding on overall vehicle movements. Figure 27 illustrates the vehicle movements across the site.

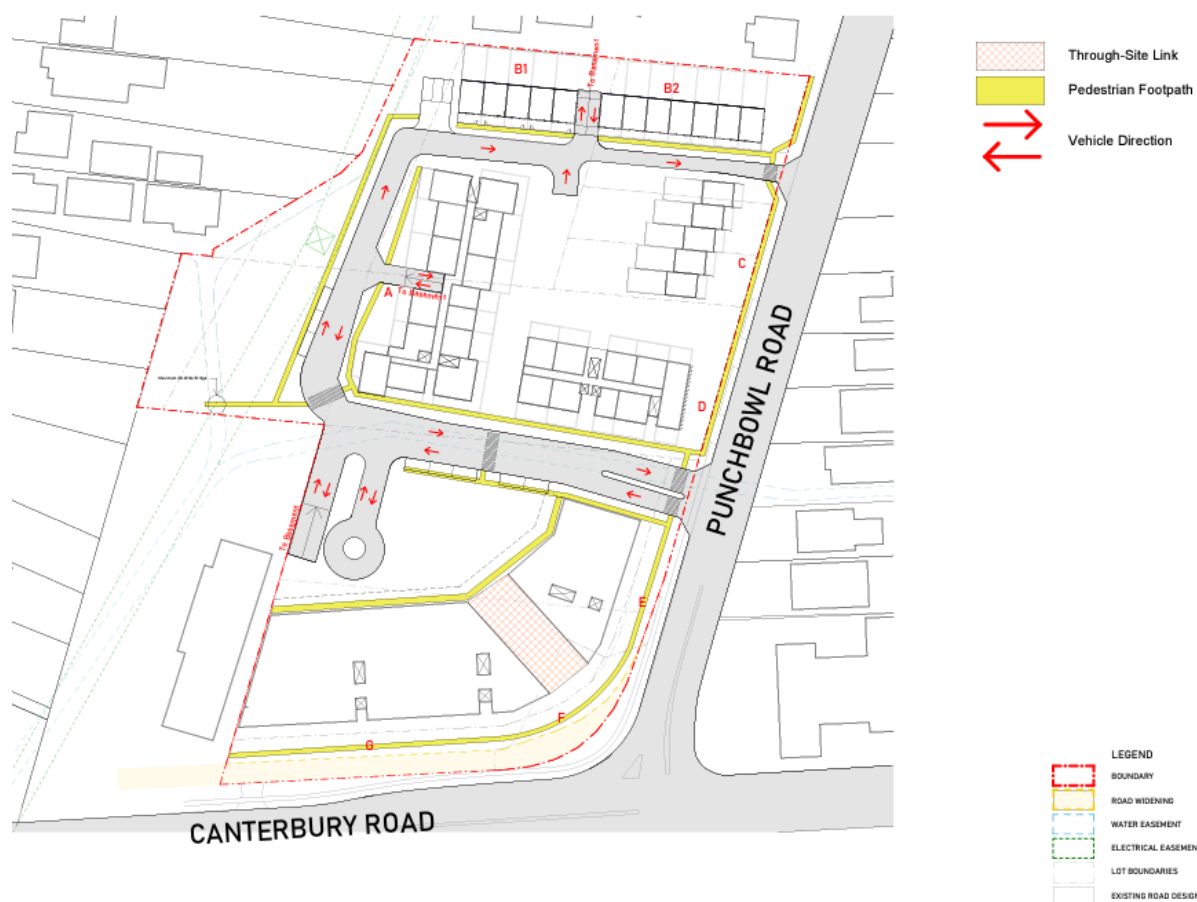


Figure 28: Vehicle movements and direction diagram.

### Analysis of Traffic Impacts and Recommended Changes

The applicant's traffic impact statement and proposed traffic management measures to minimise the traffic and congestion likely to result from the future redevelopment of the site for a mixed use development has been reviewed by TfNSW and have been supported in principle, subject to upgrades to traffic lights and installation of pedestrian refuge islands on Punchbowl Road. This matter is further discussed in Section 5.8 of this report and in Attachment N.

### **5.8 Proponent's Offer to Enter into a Planning Agreement with Council**

The applicant has provided a Letter of Offer that details the first offer of public benefits and infrastructure that would be delivered as part of the LEP amendment for the site. The applicant offered the following public benefits and infrastructure:

Table 4. Items offered in the proponents Letter of Offer.

Item No.	Description
1.	Dedication of affordable housing – 5% of the total amount of residential units over the site and project shall be dedicated to Council, or provided as a monetary contribution, as affordable housing
2.	Dedication of activity room – a 60m <sup>2</sup> space to be dedicated to Council as a community/activity room
3.	Dedication of land for road widening as required by Transport for NSW
4.	Section 7.11 and 7.12 Development Contributions



Council does not agree with item 2 as it would be a better outcome to receive monetary contributions for such facility elsewhere in the LGA. This will be included in the development contributions for this project.

Council will engage an independent consultant to review and evaluate the proponent's offer and provide advice that will assist with costing the total value of the proponent's offer and assist with and/or facilitate Council's negotiations with the proponent to prepare a draft Planning Agreement for exhibition. It should be noted that no Letter of Offer was provided in the previous planning proposal for this site that obtained a Gateway determination but was ultimately withdrawn.

## 6. OTHER CONSIDERATIONS

Council has assessed this planning proposal against the justification matters outlined in DPHI's LEP Making Guideline. The purpose of this planning proposal is to demonstrate whether there is justification for a proposal to proceed to Gateway based on consistency with the relevant state environmental planning policies and Ministerial Directions.

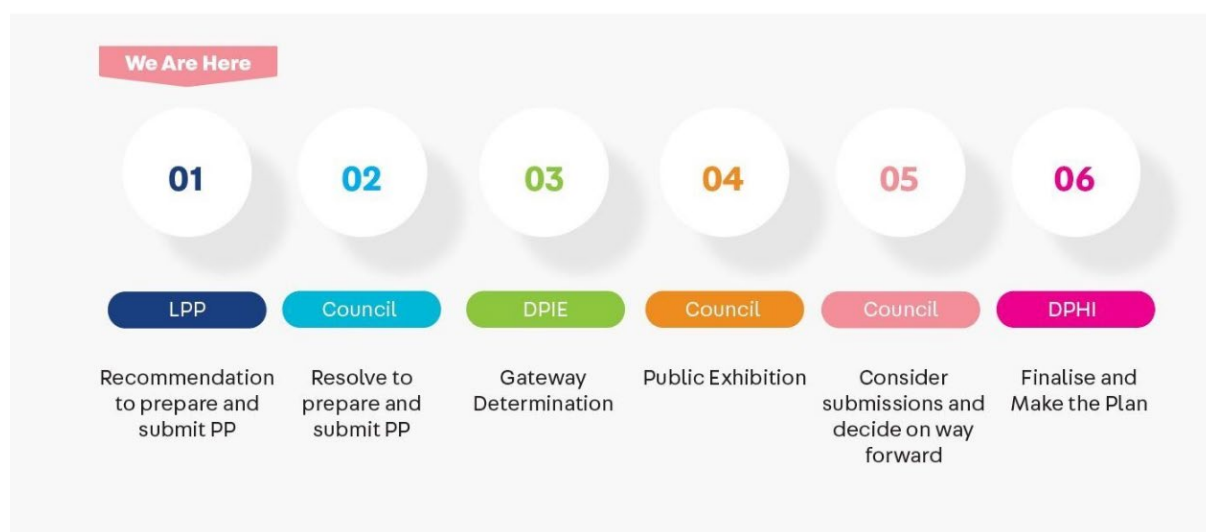
Key matters for consideration are the management of likely impacts resulting from the proposal. These are primarily:

- Flooding impacts
- Road and intersection upgrades, and
- Detailed urban design matters to be resolved through the site-specific DCP.

It is also noted that the Letter of Offer and subsequent Planning Agreement required further discussion and negotiation between the Proponent and Council.

This report concludes that the proposal presents both strategic and site-specific merit and proceed to a Gateway determination, should Council decide to progress this planning proposal.

## 7. NEXT STEPS



- END -

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## Canterbury Bankstown Local Planning Panel - 8 May 2024

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<b>ITEM 2</b>	<b>41 Wattle Street, Punchbowl</b>
	<b>Ancillary place of assembly associated with existing Community Centre</b>
<b>FILE</b>	<b>DA-1580-2023 – Darani / Bankstown Ward</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>14 December 2023</b>
<b>APPLICANT</b>	<b>Bahayra Association Inc</b>
<b>OWNERS</b>	<b>Bahayra’s Youth Association Incorporated</b>
<b>ESTIMATED VALUE</b>	<b>\$158,400</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to Council’s Local Planning Panel, as required under Schedule 2 of the Local Planning Panel Direction, as the development contravenes a development standard relating to the floor space ratio imposed by an environmental planning instrument by more than 10%.

Development Application No. DA-1580/2023 proposes an ancillary place of assembly (a BCA Class 9B building) associated with the existing community centre.

DA-1580/2023 has been assessed against the matters for consideration contained within Section 4.15 of the Environmental Planning and Assessment Act 1979, which include being assessed against the relevant provisions of the following:

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- Canterbury Bankstown Local Environmental Plan 2023;
- Canterbury Bankstown Development Control Plan 2023; and
- Water Management Act 2000.

The application fails to comply with a number of provisions contained within the above mentioned instruments which are detailed within this report. Combined, these non-compliances result in a development which is an overdevelopment of the site and not worthy of support.

## **POLICY IMPACT**

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The matter has no direct policy impacts.

## **FINANCIAL IMPACT**

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The matter has no direct financial implications.

## **RECOMMENDATION**

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It is recommended Development Application DA-1580-2023 be refused for the reasons as set out in Attachment B –Reasons for Refusal.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Reasons for Refusal

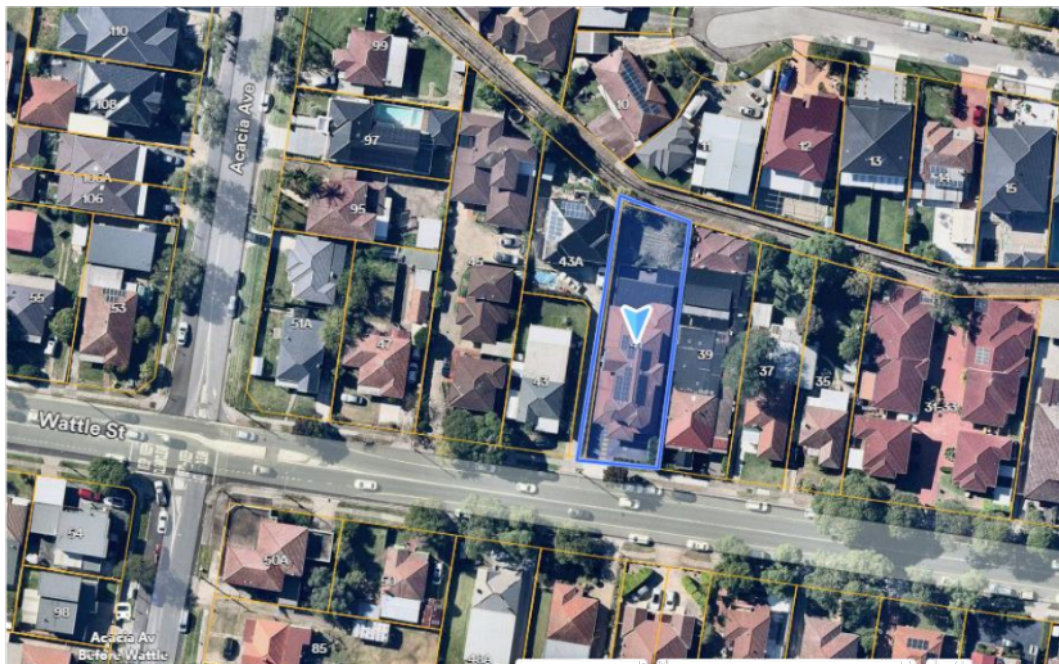
## **DA-1580/2023 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

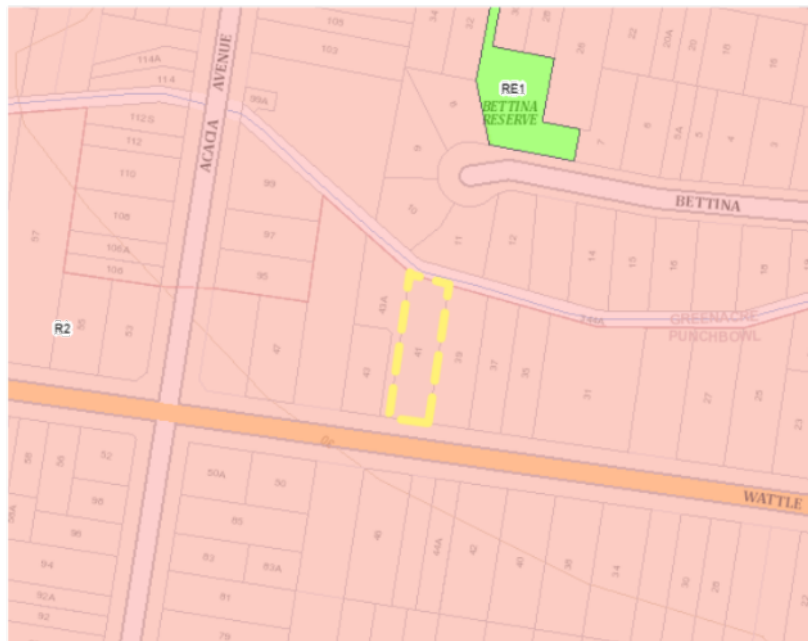
The subject site is located on the northern side of Wattle Street and is known as 41 Wattle Street, Punchbowl (Lot X DP 354118). The site is generally rectangular in shape and has a primary frontage to the southern boundary with Wattle Street of 15.24 metres, depths ranging between 52.64 metres and 55.225 metres and a rear boundary of 14.155 in width. The total site area is 815.7m<sup>2</sup>. The site contains a slight fall from south to north (front to back) with an average gradient from the south to the north of 4.1% or around 2.12 metres.

Currently occupying the site is a two storey structure with the ground floor being used as a Community Centre and the first floor being a residence. The site is zoned R2 Low Density Residential.

Directly adjoining the site to the west is 43-43A Wattle Street, Punchbowl and to the east is 39 Wattle Street, Punchbowl, which contain single storey dwellings. A channelled tributary of Coxs Creek directly adjoins the northern boundary with low density residential development fronting Bettina Court located beyond. The site is subject to stormwater inundation from the Sydney Water stormwater open channel during large storm events, with depths of water between 300mm to 400mm.



**Figure 1:** Aerial of subject site in blue. Source: NearMaps 2019



**Figure 2:** Zoning Map of the subject site shown in yellow. Source: NSW Planning Portal

## RELEVANT HISTORY

- On 19 September 2013, Council, under delegated authority, granted development consent (DA-543/2013) for the use of the ground floor of the existing residential premises as a Community Centre, subject to a 12-month trial period. The first floor of the premises remained as a separate residence.

The number of patrons expected were between (6-12) during meetings and between (10-20) during christening and birthday occasions.

This application was assessed against the Bankstown Local Environmental Plan 2001, in which an 0.5:1 FSR applied to the site. The use and associated works were carried out in 2014.

DA-543/2013 requires 1 parking space for the first floor dwelling in the garage, and another space in the front setback for the community facility. The failure to provide the required 2 parking spaces for the residence was supported as it was not considered likely to have a detrimental impact on the locality.

The application was supported by a traffic and parking study which determined that sufficient street parking was available, and this arrangement was on a 12-month trial period.

The trial period was included as part of a condition of consent to determine whether there is sufficient parking in the vicinity of the site and whether the use of those parking spaces will result in any impact on the amenity of residential properties in the locality.



On 28 September 2016, Modification application DA-543/2013/1 was approved which removed the 12 month temporary restriction on the approved use.

DA-543/2013/1 found that that the centre operated in an acceptable manner with minimal environmental impact and on that basis the use was approved to operate on a permanent basis. ct.

## **SUBJECT APPLICATION HISTORY**

- The subject application was formally lodged on 14 December 2023 for the construction of an outbuilding.
- The applicant stated in their statement of environmental effects that “The proposal is for a single storey rear ancillary outbuilding located within the rear yard of the subject site. The proposal does not include changes to the primary dwelling or car parking on site. The proposed outbuilding will be used ancillary to the existing approved ground floor community centre within the principal dwelling associated with Bahayra’s Youth Association community centre”. The proposed hours of use for the outbuilding will be consistent with the ground floor community centre of 11:00am-9:30pm Monday to Sunday. The outbuilding will be used as an ancillary gathering space to the ground floor community centre and includes a small covered patio and toilet accessed externally.”
- The application was Advertised and Notified in accordance with the Canterbury Bankstown Community Participation Plan for 28 days, ending on 7 February 2024. No submissions were received in the notification period.
- On 1 March 2024, Council issued a Request for Further Information letter raising that the proposed development exceeded the maximum floor space ratio under the Canterbury Bankstown Local Environmental Plan 2023. The applicant was provided an opportunity to withdraw the application, as Council was unable to support the application.
- The applicant originally lodged the application with the opinion that 0.5:1 FSR applied to the site. Following discussions between Council and the Applicant a Clause 4.6 submission was provided for consideration.
- The applicant informed Council they would not withdraw the application and to proceed to determination.

## **PROPOSED DEVELOPMENT**

The applicant seeks consent for the construction of an outbuilding.

The Canterbury Bankstown Development Control Plan 2023 defines an outbuilding as any of the following class 10a buildings under the Building Code of Australia:

- (a) balcony, deck, patio, pergola, terrace or verandah that is detached from a building,
- (b) cabana, cubby house, fernery, garden shed, gazebo or greenhouse that is detached from a building,

- (c) carport that is detached from a building,
- (d) farm building that is detached from a building,
- (e) garage that is detached from a building,
- (f) rainwater tank (above ground) that is detached from a building,
- (g) shade structure that is detached from a building,
- (h) shed that is detached from a building.

The Statement of Environmental Effect specifies the proposed outbuilding will be used as an ancillary gathering space to the ground floor community centre.

The ancillary gathering space to be used has an area of 43.2m<sup>2</sup>. The proposed structure also includes an attached patio and externally accessed toilet and seeks to operate between the hours of 11:00am and 9:30pm seven days a week.

Council contends the proposed development does not meet the definition of an outbuilding. This creates a fundamental issue in so far as what the applicant has initially sought development consent for does not properly characterise the development.

Council determines the Development Application seeks consent for the construction of an assembly building (BCA Class 9B) associated with the existing community facility, located at the rear of the existing development.

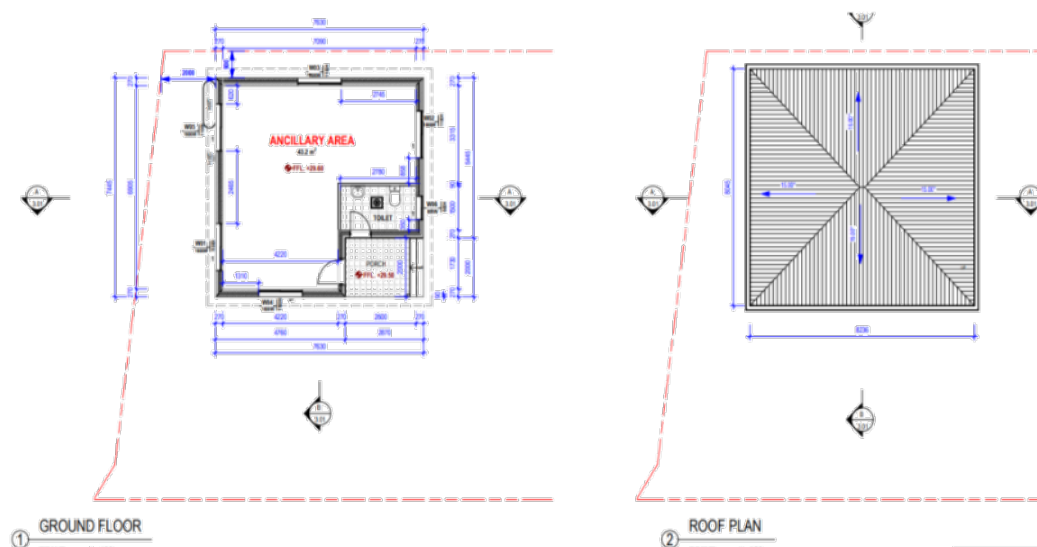
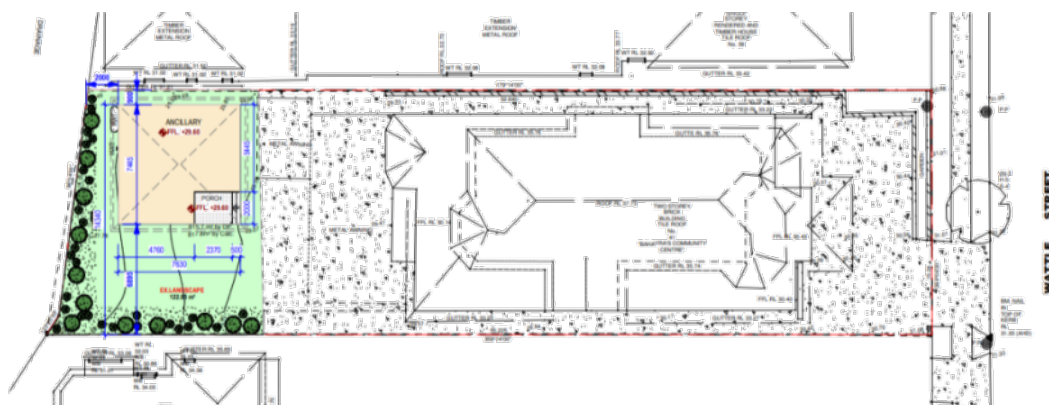


Figure 3: Architectural plans



**Figure 4: Site Plan**

### **PERMISSIBILITY**

The proposed development is legally described as a community facility, which is defined in the Canterbury Bankstown Local Environmental Plan 2023 as a building or place, which

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

In addressing (a) of the above definition, the Applicants (Baharyra Youth Association) have submitted no documentation which would indicate status as a public authority or non-profit organization. As such, permissibility in line with the ownership/control requirements remain unclear.

Additionally, the Applicant has not addressed nor provided detail as to (b) – the use and operation of the structure, which further hinders to ability to clearly establish permissibility in line with the definition of Community Facility.

### **STATUTORY CONSIDERATIONS**

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

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP2023)
- Canterbury Bankstown Development Control Plan 2023 (CBDP 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 (SEPP) (Biodiversity and Conservation) 2021**

Chapter 2 of SEPP (Biodiversity and Conservation) aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. Chapter 2 applies to the whole of Canterbury Bankstown Council, including the subject development site.

This application does not seek to remove any vegetation which is exempt from protection under CBDCP 2023 Chapter 2.3 and is therefore considered to be consistent with the aims of SEPP (Biodiversity and Conservation).

Chapter 6 of SEPP (Biodiversity and Conservation) applies to all development on land in a regulated catchment. Canterbury Bankstown Council includes land within the Georges River Catchment, in which the subject site falls.

An assessment of the proposal has concluded that the development complies with the relevant assessment matters contained within Sections 6.6 – Water quality and quantity, 6.7 – Aquatic ecology, 6.8 – Flooding, 6.9 – Recreation and public access, and 6.10 – Total catchment management. The development is therefore consistent with the relevant provisions of Chapter 6.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

This State Environmental Planning Policy (SEPP) 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 been used for residential and the use of a community centre as consented to by Council. Given the history of the site, and that the site is not identified on Council's Contaminated Land Register, it is consistent with State Environmental Planning Policy (Resilience and Hazards) 2021.

#### **Canterbury Bankstown Local Environmental Plan (CBLEP) 2023**

The following clauses of CBLEP 2023 were taken into consideration during the assessment of this application.



### 1. Clause 1.2 – Aims of Plan

The proposed development has been considered against the aims of the Canterbury Bankstown Local Environmental Plan (CBLEP) 2023, including (*inter alia*): -

- (d) to provide development opportunities that are compatible with the desired future character and amenity of Canterbury-Bankstown,*

As is demonstrated later in this report, the proposed development fails to demonstrate compliance with aim (d) of the CBLEP 2023.

### 2. Clause 2.3 Zone Objectives and Land Use Table

The site is identified as being within R2 Low Density Residential zoned land. The objectives of the R2 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.*
- *To allow for certain non-residential uses that are compatible with residential uses and do not adversely affect the living environment or amenity of the area.*
- *To ensure suitable landscaping in the low density residential environment.*
- *To minimise and manage traffic and parking impacts.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To promote a high standard of urban design and local amenity.*

As demonstrated later in this report, the proposed development fails to demonstrate compliance with the objectives of the R2 Low Density Residential Zone. Particular reference is made to non-residential uses being compatible with residential uses, and minimising traffic and parking impacts within the zone.

### 3. Clause 4.3 Height of Buildings

The site is subject to a maximum permitted 9 metre building height under the CBLEP 2023. The application proposes a maximum building height of 4.5m which complies.

### 4. Clause 4.4 – Floor Space Ratio

Clause 4.4(2B) (a)(i) of CBLEP 2023 limits the site to a maximum permitted floor space ratio (FSR) of 0.4:1 for non-residential uses.

Given the site area, the resultant permissible gross floor area (GFA) is 326.28m<sup>2</sup>. The proposed GFA is 413.1m<sup>2</sup>, which equates to a proposed FSR of 0.51:1. This results in an exceedance of the permitted FSR by 27.5%.

Whilst the proposal does not comply with the 0.4:1 FSR standard, it should be noted that the site presently has a floor space ratio of 0.45:1. This was consented by Council in 2013 under DA-543/2013 when the applicable FSR under the former Bankstown LEP for the site was 0.5:1.



### 5. Clause 4.6 - Exceptions to Development Standards

The proposal seeks to vary Clause 4.4, the Floor Space Ratio development standard contained within CBLEP 2023, as indicated table below:

Clause	Development Standard	Proposal	Proposed Variation	Proposed variation (%)
CI 4.4: Floor space ratio	0.4:1	0.51:1	86.82m <sup>2</sup>	27.5%

It should be noted that the submitted Clause 4.6 variation request incorrectly calculated the extent of the variation, indicating the variation presented only a 10% exceedance. Notwithstanding the fact that this error on the applicant's part means that the extent of the proposed variation has not been properly identified, and that the Clause 4.6 submission is fundamentally flawed, Council has still assessed the submission and makes the following conclusions.

Clause 4.6 Exceptions to Development Standard of CBLEP 2023 states in subsection 3, that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

The application was accompanied by an inadequate Clause 4.6 variation request for the proposed breach. It is inadequate because it does not correctly describe the numerical extent of the breach and because the analysis undertaken by the applicant does not satisfactorily address the aims of the development standard.

#### Unreasonable or Unnecessary

The Clause 4.6 variation request put forward several reasons which sought to address why compliance with the standard was considered unreasonable or unnecessary, including: -

1. *The site already breaches allowable Floor Space Ratio*
2. *The development does not change the existing building envelope*
3. *The scale of the structure is similar to a secondary dwelling or outbuilding*
4. *Reflects the building pattern in the area*

Had the proposed development been for a residential use on the subject site, the maximum floor space ratio of 0.5:1 for residential uses would still have been breached, let alone the significantly higher exceedance that is now realised with the proposed non-residential use and its maximum of 0.4:1. The proposed development of the structure to the rear of the property would only exacerbate the existing non-compliance.

It is recognised that the existing breach is a direct result of the addition of the non-residential FSR control (Clause 4.4(2B) (a)) applicable to the R2 Zone in the CBLEP 2023. This control was initially implemented as part of the Bankstown Local Environmental Plan 2015 and maintained in the Canterbury Bankstown Local Environmental Plan 2023 and seeks to control the bulk and scale of non-residential uses in the R2 Low Density Residential Zone.

#### Environmental Planning Grounds

The Clause 4.6 variation request considered environmental planning grounds to justify the contravention of the development standard (Clause 4.6(3)(b)). The written request contends that the development is permissible and achieves the objectives of both the zone and the standard.

It is not considered that the applicant has provided sufficient environmental planning grounds to justify the contravention of the development standard.

As mentioned in the assessment of the zone objectives and land use table above in this report, the proposed development is not consistent with the objectives of the R2 Low Density Residential zone. In particular, the proposed development does not meet the following objectives of the zone.

- *To allow for certain non-residential uses that are compatible with residential uses and do not adversely affect the living environment or amenity of the area, and*
- *To minimise and manage traffic and parking impacts.*

The applicant contend that "...the proposed use is an approved use on the site and the site is not located in an area with transitioning zoned. The site is surrounded by R2 low density residential zoned land."

Whilst community facilities are a permissible use in the Zone with consent, the Applicant had not adequately demonstrated in their statement of environmental effects (or through any other information submitted with the application) that the use is permissible as no evidence has been submitted that it meets the dictionary definition, in relation to whether the organisation is a not-for-profit organisation, set out in the CBLEP 2023.

Furthermore, the proposed increase in gross floor area has the potential to allow for additional patrons to occupy the site. There has been insufficient information provided by the applicant to ensure that impacts of noise, etc, have been suitably addressed to accord with the requirements of the CBDP 2023.

In this regard, it is noted that a setback of 900mm has been proposed to the eastern (side) property boundary and a 2 metre minimum setback is proposed to the northern (rear) property boundary. Both these elevations contain openings and the applicant has not provided any analysis of how many people might occupy this space (only stating that overall patronage will not increase). As well as an absence of patron numbers, there are also no details of how this space will be used and no acoustic analysis that has been submitted.

Due to the lack of information that has been provided by the applicant, the impacts cannot be quantified or assessed, and it cannot be said whether the development will, or will not meet the relevant objectives of the zone. That is, it cannot be said whether the development will be compatible with surrounding residential land uses, or whether it will affect the amenity of the area.

The site is partially flood affected, with depths of water between 300mm to 400mm. The Applicant has not adequately demonstrated that the proposed development is compliant with the relevant flooding and drainage controls of the CBDP 2023, and as a result the proposed development may have adverse effects on the amenity of the area.

It is therefore considered that the proposed non-residential development has not indicated compatibility with the residential uses of the area.

With relation to the second identified objective, the Applicant has not demonstrated that the proposed development will not result in additional parking demands on the site, thus leading to potential increases to on-street parking.

The Applicant contends, "the proposed outbuilding will not impact traffic and parking on site. The outbuilding will not cater to an additional number of patrons but simply provide an outbuilding in the rear yard that replaces outdoor space with indoor space"

Notwithstanding the above assertion, the controls contained within the Canterbury Bankstown Development Control Plan 2023 (Chapter 3.2) require that this type of development application must be accompanied by a traffic and parking study, prepared by a qualified traffic consultant. No such study was provided; therefore, the proposed development cannot be considered consistent with the objective to minimise and manage traffic and parking impacts.

Given the above, it is considered that the development is inconsistent with the objectives of the zone of the Canterbury Bankstown Local Environmental Plan 2023.

The proposal also fails to meet the objectives of the Floor Space Ratio Standard which include:-

- (a) *to establish the bulk and maximum density of development consistent with the character, amenity and capacity of the area in which the development will be located,*
- (b) *to ensure the bulk of non-residential development in or adjoining a residential zone is compatible with the prevailing suburban character and amenity of the residential zone,*



As defined in the CBDCP 2023, the prevailing suburban character of residential areas includes the subdivision pattern, front and side building setbacks, off-street parking behind the front building line and the landscape of front yards with canopy trees and deep soil plantings. Further, the desired character is defined as having a low density residential environment in Zone R2, where the typical features are dwelling houses, dual occupancies and secondary dwellings within a generous landscaped setting. The site cover and building form of development must be compatible with the prevailing suburban character and amenity of this zone. Zone R2 is also the most restrictive in terms of other permitted uses that are considered suitable. These are generally restricted to facilities and services that meet the day-to-day needs of residents.

The reduced floor space ratio that applies to non-residential land uses in the R2 zone reflects the fact that these uses have the potential for a greater intensity of development than typical residential land uses. In other words, a site of this size could accommodate a single family home or a possible dual occupancy development, based on the site area and the frontage. This means that the maximum that the site could accommodate in terms of residential development would be two dwellings, or two families.

Non-residential land uses such as community facilities, places of worship, child care centres, and the like, have the potential for more attendees at the site, with associated increased traffic movements, noise impacts, and privacy impacts than a typical residential development. This is evidenced in the original development application for this community centre, where the applicant indicated that the use would accommodate numbers of patrons between 6-12 patrons during meetings, and between 10-20 during christening and birthdays occasions. This is greater than what could be expected from two family units and the reduced FSR applicable to non-residential uses (as contained in the LEP) assists in managing potential impacts on the surrounding neighbourhood.

Although the applicant has indicated that the number of patrons will not increase as part of this application, the approximate 9% increase in gross floor area has the potential to increase capacity of the development by a similar amount, or to use the figures in the original application, to see gatherings of between 13 and 22 patrons.

In addition, it is noted that the Building Code of Australia would envisage that this proposed additional building could support a potential occupancy of 38 people.

Putting aside the issue of the potential additional patrons that the site may accommodate, there are still fundamental questions that cannot be answered about the potential impacts that the proposal might have on neighbouring properties. Taking the applicant's position that patronage will not increase, there are no details on how the space will be used, or how the site more broadly, will be used. That is, will the patrons that currently attend the premises now be accommodated across both buildings simultaneously and evenly, or will there be instances where the existing building is empty (or close to empty) and all patrons will occupy the proposed new building. The applicant's submission is silent on this.

If all patrons were to be accommodated in this proposed rear gathering space, the impacts of the existing 6-12, or 10-20 patrons using this portion of the site has not been assessed by the applicant.

It is also noted that window openings in the southern, eastern, and western elevations address neighbouring residential properties. The bottom sill of the window in the eastern elevation is a minimum of around 1.7 metres above natural ground level, meaning that boundary fencing will serve no acoustic purpose and will not maintain visual privacy to neighbouring properties.

The applicant has not indicated what activities will occur in this space and what type of noise may or may not be generated from this area. There are no details of whether services such as air conditioning will be required.

The absence of any details around the use of this area means that it is impossible to have any confidence in determining the nature and intensity of use of this space and what the associated impacts of that use might be.

The proposed floor space ratio is substantially higher than the maximum 0.4:1 permitted at the subject site. The non-compliance results in a building that is greater in bulk and scale than the predominant form of development in the immediate locality, specifically in relation to non-residential uses. The addition of non-residential floor space on site, could allow for an increased capacity of the existing community centre, and would likely cause acoustic and visual amenity impacts. The bulk, scale and resulting amenity impacts are incompatible with the desired future character of the locality, specifically for non-residential uses in the R2 Low Density Residential Zone.

Given the above, it is considered that the development is not in the public interest because it is inconsistent with the objectives of Section 4.4 Floor Space Ratio of the Canterbury Bankstown Local Environmental Plan 2023.

The proposed development is inconsistent with the objectives of the R2 Low Density Residential Zone as it does not represent an outcome that is compatible with the existing residential uses. The proposed built form will not contribute to the desired future character of the area and would likely result in adverse amenity impacts to the neighboring properties, specifically in relation to visual bulk, acoustic privacy, traffic and parking impacts.

The proposal therefore fails to comply with the objective of Section 4.6(1)(b) and the requirements of Section 4.6(3)(b) of the Canterbury Bankstown Local Environmental Plan 2023. For the reasons outlined above, there are insufficient environmental planning grounds to justify the contravention of the development standard, and it is recommended that the Section 4.6 exception be rejected.

#### Conclusion

Accordingly, the proposal is not considered to have satisfied Clause 4.6(3)(b) of the Canterbury Bankstown Local Environmental Plan 2023, as the variation request was not well founded and fails to demonstrate there are insufficient environmental planning grounds to justify the variation. For this and other reasons, the application is recommended for refusal.



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

There are no draft environmental planning instruments applicable to the subject site or the proposed development typology.

**Development control plans [section 4.15(1)(a)(iii)]****Canterbury Bankstown Development Control Plan (CBDCP) 2023**

The following chapters of the Canterbury Bankstown Development Control Plan 2023 were taken into consideration during the assessment of this application:

- Chapter 2.2 Flood Risk Management
- Chapter 3.1 Development Engineering Standards
- Chapter 3.2 Parking
- Chapter 10.4 Non-Residential Land Uses in Residential Zones.

The following provides a summary of the development application against the relevant controls contained within CBDCP 2023.

**Chapter 2.2 – Flood Risk Management, and  
Chapter 3.1 – Development Engineering Standards**

The application was referred to Council's Development Engineer who assessed the application against the provisions of Chapters 2.2 and 3.1 of CBDCP 2023. The Development Engineer does not support to the application.

In particular, the application has failed to provide appropriate details of the existing stormwater management of the site including all stormwater devices to capture runoff from existing dwelling and all other hard surface areas. Levels of existing work are also to be demonstrated as well as the location of discharge point from the site are required.

The Development Engineer also noted that the post-development impervious area of the site is greater than 75% according to the submitted landscape plan, contrary to the provisions of the Canterbury Bankstown Development Control Plan 2023 Chapter 3.1 and Development Engineering Standards Guide would require on site detention to be provided for this development, although none has been proposed by the applicant.

The application did not provide complete information to undertake a full and proper assessment of the application, including:

- Roof drainage plans showing all gutter and downpipes designed in accordance AS 3500.3 – Stormwater Drainage.
- Qualified Engineer's Details
- Conceptual proposed contours, spot levels, buildings and fences.
- Conceptual pipe and inlet pit locations and all invert levels of proposed inground drainage system.
- Rainwater tank volume and reuse.

Given this, the proposed development is inconsistent with Chapter 3.1 of the Canterbury Bankstown Development Control Plan 2023.

### Chapter 3.2 Parking

The existing site has two car parking spaces, which services the existing dwelling and community centre.

The floor area of the proposed building is 43.22m<sup>2</sup>.

No traffic or parking study was submitted with the application to confirm whether additional off-street parking spaces would be required to service the additional gross floor area of the community facility, in accordance with requirements of Control 2.5 of Section 3, Chapter 3.2 of the Canterbury Bankstown Development Control Plan 2024. As a result, Council is unable to positively ascertain whether the proposed development is adequately serviced.

### Chapter 10.4 Non-Residential Land Uses in Residential Zones

The following controls are relevant to the assessment of this development application.

Canterbury Bankstown Development Control Plan 2023						
Chapter 10.4 Non-Residential Land Use in Residential Zones (Other Non-Residential Development.						
			Compliance	Y	N	N/A
5.1 Development control	<p>In determining development applications that relate to land within Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential, Council must take into consideration the following matters:</p> <p>(a) whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone;</p> <p>(b) whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development;</p> <p>(c) whether the proposed development will maintain reasonable solar access to residential development between the hours of 8.00am and 4.00pm at the midwinter solstice;</p> <p>(d) whether noise generation from fixed sources or motor vehicles associated</p>	<p>(a) The proposal is for the addition of a 9B structure (social assembly building), to be used for the purposes of activities for those attending the community centre facility. The proposed structure is not reflective of a character consistent with the locality, noting its exceedance with the maximum permitted FSR to the site.</p> <p>(b) The function and use of the existing community facility are not to be amended or altered as a result of the proposal.</p> <p>(c)The proposed 9B structure at the rear is not considered to impact upon the solar access on site.</p> <p>(d) No acoustic report was provided in support of the application.</p>		N		

Canterbury Bankstown Development Control Plan 2023						
Chapter 10.4 Non-Residential Land Use in Residential Zones (Other Non-Residential Development.						
			Compliance	Y	N	N/A
	<p>with the proposed development will be effectively insulated or otherwise minimised;</p> <p>(e) whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like; and</p> <p>(f) whether any windows or balconies facing residential areas will be treated to avoid overlooking of private yard space or windows in residences.</p>	<p>(e) The proposal is likely to adversely impact upon the neighbouring development due to the increased capacity of users on site.</p> <p>(f) Windows and porch are not to result in the overlooking of the adjoining development.</p>				
<b>6.1 Building design (utilities and building services)</b>	The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans.	To remain unchanged			-	
<b>6.2 Building design (utilities and building services)</b>	Utilities and building services are to be integrated into the building design and concealed from public view.	To remain unchanged			-	
<b>6.7 Front fences</b>	The maximum fence height for front fences is 1.8m	To remain unchanged			-	
<b>6.8 Front fences</b>	<p>The external appearance of front fences along the primary and secondary street frontages must ensure:</p> <p>(a) the section of the front fence that comprises solid construction (not including pillars) does not exceed a fence height of 1m above ground level (existing); and</p> <p>(b) the remaining height of the front fence comprises open style construction such as spaced timber</p>	To remain unchanged			-	

Canterbury Bankstown Development Control Plan 2023 Chapter 10.4 Non-Residential Land Use in Residential Zones (Other Non-Residential Development.					
		Compliance	Y	N	N/A
	pickets or wrought iron that enhance and unify the building design.				
<b>6.9 Front fences</b>	Council does not allow the following types of front fences: (a) chain wire, metal sheeting, brushwood, and electric fences; and (b) noise attenuation walls.	To remain unchanged			-

### OTHER REFERRALS

<b>Environmental Health</b>	<b>Conditions of consent provided subject to the approval of the development application</b>
<b>Building Surveyor</b>	<b>Conditions of consent provided subject to the approval of the development application.</b>  <i>The Statement of Environmental Effect specified the proposed outbuilding will be used as an ancillary gathering space to the ground floor community centre and includes a small covered patio and toilet accessed externally.</i>  <i>As such the building will be a <b>Class 9b</b> building under the Building Code of Australia.</i>  <i>The building is required to be <b>Type C</b> construction under the Building Code of Australia.</i>  <i>The new part, and any affected part, of the building must comply with the Access Code under the Disability (Access to Premises - Buildings) Standards 2010 to ensure access to the building, and facilities and services within the building, is provided for people with a disability.</i>
<b>Community Safety and Crime Prevention Officer</b>	<b>Conditions of consent provided subject to the approval of the development application.</b>  <i>I recommend all safety and crime prevention measures are provided within the SEE and become a condition of consent, additionally that the proposed outbuilding will be consistent with the current dwelling and the location of windows along the side elevations ensures the development will not pose adverse impacts onto the adjoining neighbours including hours of operation.</i>

It is important to the note that the response from Council's Building Surveyors included conditions of consent which require the construction certificate plans to show the method protection of openings in external walls that are required to have fire resistance level. This will apply to the eastern and southern elevations at a minimum, where walls and openings are both located within 3 metres of the boundaries. In the absence of suitable details from the applicant, there is no certainty in what the final appearance of the building might, both in terms of the proposed openings and the external materials.



**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 assessment demonstrates that the proposal has the potential to have an adverse impact upon the adjoining properties with regard to the applicable planning instruments and controls.

There are a number of instances where the actual impacts of the development cannot be established. This includes the potential acoustic impacts associated with the use of this space, potential visual and acoustic privacy impacts, potential impacts on stormwater management, and the potential visual impacts of the development (given that external openings and finishes are unresolved). This is aside from any impacts that may arise because the potential increased intensity of use of the premises.

All relevant issues regarding environmental impact of the development are discussed elsewhere in this report, including built environment impacts such as built form and visual bulk. The acoustic amenity of the area would be impacted by the proposal, as a result of the increased capacity on site for those users of the community centre. In the context of the site and the assessment provided by Council's experts, the development is not considered satisfactory in terms of environmental impacts.

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

On the basis of the assessment made of the proposed development and detailed in this report, it is considered that the site is not suitable for the proposed development.

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

The application was advertised and neighbour notified for a period of 28 days ending on 7 February 2024. No submissions were received by Council.

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

The public interest is served through the consistent and appropriate application of relevant policies, standards and controls. As outlined above, the proposed development is inconsistent with these standards, controls and objectives, and therefore, approval of the proposed development is not considered to be in the wider public interest.

**CONCLUSION**

The application has been assessed relative to Section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.



The proposed development would cause potential adverse impacts on the neighbouring properties and locality. The proposed development is considered an overdevelopment of the site and a poor response to the site constraints.

For the reasons outlined in this report, the potential impacts generated by the proposal are pertinent to visual and environmental impacts to the neighbouring properties and are considered to impact upon the desired future character of the area. It is considered that the proposal is not satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. To conclude, the proposed development is not considered reasonable and is recommended for refusal.

It is recommended that the application be refused, for the reasons set out in Attachment B - Reasons for Refusal.

## REASONS FOR REFUSAL

1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.4 (2B)(a)(i) of the Canterbury Bankstown Local Environmental Plan 2023 relating to the maximum allowable 'Floor Space Ratio';
2. The application fails to satisfy Clause 4.6 of Canterbury Bankstown Local Environmental Plan 2023 with regard to departures from development standards as the variation request was not well founded and there are insufficient environmental planning grounds to justify the variation [*Pursuant to S4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979*];
3. The application fails to satisfy the provisions of Clause 4.4(1)(b) of the Canterbury Bankstown Local Environmental Plan 2023 in relation to the bulk and maximum density of the development [*Pursuant to S4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979*];
4. Having regard to the above non-compliances with the Canterbury Bankstown Local Environmental Plan 2023 and pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.;
5. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory in terms of its standard of design and would adversely impact upon the existing and likely future amenity of the locality.;
6. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.;
7. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land.;
8. The application is unsatisfactory as it fails to demonstrate compliance with Councils Development Engineer Standards [*Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979*];
9. The development is considered to result in the unorderedly development of land [*Pursuant to Section 1.3(c) of the Environmental Planning & Assessment Act 1979*];

10. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is unsatisfactory and is likely to adversely impact on the privacy and amenity of adjoining residential development.;
11. The site is considered unsuitable for the proposed development [Pursuant to S4.15(1)(c) of the *Environmental Planning & Assessment Act 1979*]; and

For the reasons stated above, it is considered that the development is not in the public interest [Pursuant to S4.15(1)(e) of the *Environmental Planning & Assessment Act 1979*].

- END -

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## Canterbury Bankstown Local Planning Panel - 8 May 2024

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<b>ITEM 3</b>	<b>44 &amp; 46 Wellington Road, Chester Hill</b>
	<b>Demolition of existing structures and construction of a six storey residential flat building comprising 42 apartments, two levels of basement parking containing 58 car spaces and associated landscaping</b>
<b>FILE</b>	<b>DA-907/2023 – Bura / Bass Hill Ward</b>
<b>ZONING</b>	<b>R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>3 August 2023</b>
<b>APPLICANT</b>	<b>The Trustee for Donnellan/Watson Family Superfund</b>
<b>OWNERS</b>	<b>Marian Street Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$13,865,000</b>
<b>AUTHOR</b>	<b>Planning</b>

### **REPORT**

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THIS ITEM HAS BEEN REMOVED DUE TO ERROR

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**ITEM 4****41 Burbank Avenue, East Hills**

**Demolition of existing dwelling and construction of a two storey attached dual occupancy with shared semi basement garage, shared spa/pool and strata title subdivision into two lots, with existing waterfront boatshed, ramp and gazebo to be retained.**

**Section 4.55(2) Modification: 1m increase to overall wall height, 1m increase to overall building height, increase floor to ceiling heights, consolidate upper ground floor slab level, minor layout changes to basement ramp entrance, upper ground floor staircase void increase, and new external stairs on side setbacks.**

**FILE****DA-305/2022/B – Bunya / Revesby Ward****ZONING****R2 Low Density Residential****DATE OF LODGEMENT****6 November 2023****APPLICANT****Amin Azam****OWNERS****Amin Azam and Nina Azam****ESTIMATED VALUE****\$1,796,342****AUTHOR****Planning**

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### REPORT

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This matter is reported to the Canterbury-Bankstown Local Planning Panel (the Panel) as the applicant proposes a Section 4.55 Modification Application, seeking further departures to the wall height and building height development standards previously approved by the Panel.



On 26 April 2022, the Panel approved Development Application DA-305/2022 for the demolition of the existing dwelling and construction of a two storey attached dual occupancy with shared semi-basement garage, shared spa/pool and strata title subdivision into two lots, with the existing waterfront boatshed, ramp and gazebo to be retained. It is noted that the approved height of the building included a 9.864m wall height and 10.264m building height (i.e. 40.9% wall height and 14.0% building height departures from the development standards, under the provisions of clause 4.3 Height of Buildings of the Bankstown Local Environmental Plan 2015).

On 22 December 2022, Council approved Modification Application DA-305/2022/A for minor changes to the front entry/foyer, minor layout changes to the garage, minor floor level increase to the front foyer and new highlight windows.

Modification Application DA-305/2022/B now proposes to amend the original application by increasing the height of the building by 1m, resulting a maximum wall height of 10.864m and a maximum building height of 11.264m (i.e. 55.2% wall height and 25.2% building height departure from the development standards).

The Modification Application has been assessed against the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and the applicable provisions contained in *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *Canterbury-Bankstown Local Environmental Plan 2023* and *Canterbury-Bankstown Development Control Plan 2023*. In consideration of the proposed increases in wall height and building height, the proposed development as modified is not worthy of support in this instance.

The application was notified for a period of fourteen (14) days between 17 November 2023 to 30 November 2023. No submissions were received in relation to the proposed modifications.

## **POLICY IMPACT**

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The recommendation of this report is that the Modification Application be refused. Such a determination would not have any direct policy implications, as it would uphold the relevant planning and development controls.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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It is recommended Modification Application DA-305/2022/B be refused for the reasons as set out in Attachment B –Reasons for Refusal.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Reasons for Refusal

## **ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is legally described as Lot 200 in Deposited Plan 1213044, however is more commonly known as 41 Burbank Avenue, EAST HILLS NSW 2213. The subject site is zoned R2 Low Density Residential as prescribed in the Land Use Table of the BLEP 2015.

The subject site is on the western side of Burbank Avenue and directly adjoins Georges River foreshore to the rear. It is a regular-shaped allotment with a primary frontage of 15.27m, a maximum depth of approximately 91.2m, and a site area of 1360m<sup>2</sup>. The site has a fall of 15.12m from the primary frontage (northeast) at AHD 16.27 to the Georges River foreshore (southwest) at AHD 1.15.

The subject site is affected by medium and high-risk flooding from the Georges River 20-year and 100-year flooding events, requiring the raising of all habitable floor levels to at least 500mm above the RL 4.0m AHD level.

The subject site is currently vacant with an existing boat shed and jetty at the rear of the site. The developments across Burbank Avenue consists of two-storey dual occupancies and two-storey dwellings. To the immediate northwest at No. 39 Burbank Avenue is a three-storey dwelling and to the immediate southwest at No. 51 Burbank Avenue is a two-storey dual occupancy.



**Figure 1:** Aerial photo of the subject site

Source: NearMaps 2021

## **PROPOSED DEVELOPMENT**

The Modification Application proposes to amend the original application by increasing the approved heights of building by 1m, increasing floor to ceiling heights, increasing roof level heights, consolidating the ground floor finished floor level, increasing the ground floor staircase void area, reducing the total gross floor area, with minor layout changes to basement ramp entrance and construction of external stairs on each side setbacks.

The proposed numerical modifications compared to the approved levels are summarised as follows:

	Approved	Proposed
Wall height	9.864m	10.864m
Building height	10.264m	11.264m
Ground Floor Level of Family Room	14.35 FFL	15.35 FFL
Ceiling Level of Family Room	17.00 RL	18.00 RL
Roof Level of Family Room	17.40 RL	18.40 RL
Ground floor steps	9 steps	4 steps

## **STATUTORY CONSIDERATIONS**

This application is submitted under the provisions of Section 4.55 of the *Environmental Planning and Assessment Act, 1979*. The application seeks to amend Determination Notice No. DA-305/2022/B, and involves the following modifications:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP 2023)
- Canterbury-Bankstown Development Control Plan 2023 (CBDPCP 2023)

### **SECTION 4.55(2) ASSESSMENT - (Other Modifications)**

The proposed modifications have been assessed pursuant to section 4.55 of the *Environmental Planning and Assessment Act, 1979*.

**(a) *the development as modified is substantially the same development as the development for which the consent was originally granted***

The proposed modification seeks to consolidate the ground floor family room by raising the finished floor level and increasing the roof and height levels. It is considered. The proposed development as modified remains generally a two-storey development, except for the three-storey element to the rear of the ground floor family room. As such, the proposed development as modified is substantially the same development for which the consent was originally granted for.

**(b) *the application has been notified in accordance with the regulations or a development control plan***

The application has been notified in accordance with Council's notification requirements.

**(c) Council has consulted with the relevant Minister, public authority or approval body**

Consultation with the minister, public authority or approval body is not required for this application.

**(d) any submissions made concerning the proposed modification**

No submissions were made in relation to the proposed modifications during the assessment of the application.

## **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**

The proposal has been assessed against the relevant aims and objectives of this State Environmental Planning Policy which seeks to protect remaining native vegetation within urban areas. It is considered that the proposed development as modified remain consistent with the aims of the instrument.

#### **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 sites have generally only been used for residential purposes. It is considered that the proposed development as modified remain consistent with State Environmental Planning Policy (Resilience and Hazards) 2021.

#### **Canterbury-Bankstown Local Environmental Plan 2023**

It is noted that DA-305/2022 was assessed against the former Bankstown Local Environmental Plan 2015. Notably, Clause 4.3 Heights of Building allowed for a maximum 7m wall height and 9m building height. The departures of the former development standards were supported by the Panel in the approval of DA-305/2022.

The following development standards of the Canterbury-Bankstown Local Environmental Plan 2023 were taken into consideration:



Canterbury-Bankstown Local Environmental Plan 2023					
Clause	Standard / Requirement	Proposed	Y	N	NA
<b>Part 4 Principal development standards</b>					
4.3(2)	9m max building height per Height of Buildings Map	11.264m i.e. 25.2% departure from the development standard.		✓	
4.3(2C)	The maximum wall height for dual occupancies in zone R2 in Area 1 is 7m	10.864m i.e. 55.2% departure from the development standard.		✓	
4.4	Floor space ratio  Max 0.5:1	GFA = 652.1m <sup>2</sup> Site = 1360m <sup>2</sup> FSR = GFA / Site = 0.48:1 The void staircase on the ground floor has increased resulting in minor reduction of the overall gross floor area.	✓		
4.5	Calculation of floor space ratio and site area		✓		

As demonstrated above, the proposal as modified fails to comply with Clause 4.3 of the CBLEP 2023. Further discussions are provided below regarding the further departures to the building height and wall height development standards contained in Clause 4.3.

#### Clause 4.3 Height of Buildings – Heights of Building

Clause 4.3(2) and Clause 4.3(2C) of the BLEP 2015 reads as follows:

#### *4.3 Height of Buildings*

- (2) *The height of a building on any land is not to exceed the maximum height shown of the land on the Height of Buildings Map*
- (2C) *The maximum wall height for a dwelling house or dual occupancy in Zone R2 in Area 1 is 7m.*

The Height of Buildings Map contained in the CBLEP 2023 allows a maximum permissible building height of 9 metres for the subject site.

The building height approved by the Panel in DA-305/2022 was a maximum of 10.264m, as measured between the proposed roof level above the ground floor family room at 17.4 RL and the lowest natural ground level at 7.136 NGL. This represented a 14.0% departure from the development standard.

The proposed modification seeks to increase the approved building height by 1m, resulting in a maximum height of 11.264m that represents a 25.2% departure from the development standard.

The wall height approved by the Panel in DA-305/2022 was a maximum of 9.864m, as measured between the underside of the eaves of the ground floor family room at 17.0 RL and the lowest natural ground level at 7.136 NGL. This represented a 40.9% departure from the development standard.

The proposed modification seeks to increase the approved wall height by 1m, resulting in a maximum height of 10.864m that represents a 55.2% departure from the development standard.

It is considered that the proposed 1m height increase to the approved development represents a major departure to the development standards when compared to the heights of building supported by Council and approved by the Panel in DA-305/2022.

#### Applicant's Justifications

It is noted that under a Section 4.55 application, a formal Clause 4.6 variation is not required, however the applicant has provided justifications to seek further flexibility in the application of these development standards. The following justifications read as follows:

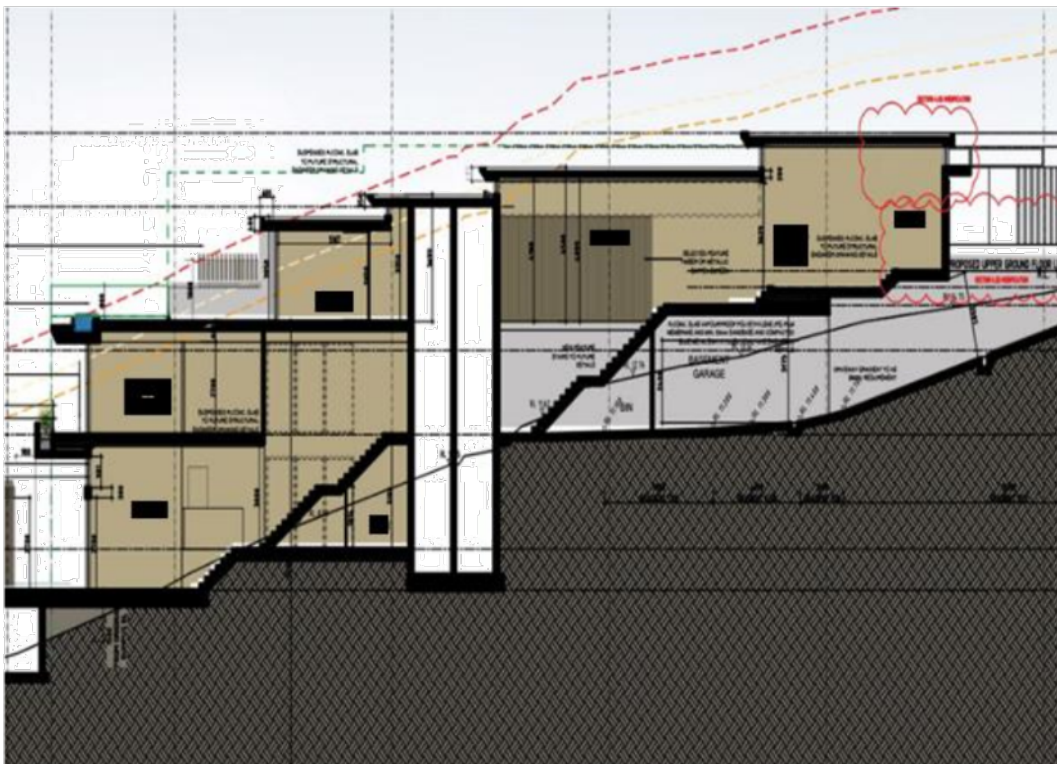
- *The development as modified retains a single storey built form to Burbank Avenue and two-storeys when viewed from the Georges River. The proposed departures do not present an uncharacteristic building height or scale when compared to the row of 2-3 storey dwellings along Burbank Avenue. Further, the modified development and additional wall height proposed by the increased roof height at the ground floor level – family room aligns with that of the adjoining development and is therefore consistent with the character of the locality...*
- *The modified development provides an appropriate transition in height across the sloping site and aligns with the adjoining built forms. The proposed wall height of the modified development is consistent with that of the adjoining properties at 39 and 51 Burbank Avenue and as such the development presents an appropriate transition in built form from the subject site to other development.*
- *The development as modified does not present any significant additional overshadowing of surrounding properties beyond that of the originally approved building envelope as detailed within Section 6 of this Statement.*
- *The visual impact of the modified development and new built form – height at the roof level is not highly visible from the streetscape consistent with that originally approved, and will not adversely impact upon the visual amenity of the area.*
- *The modifications and change in approved building height above 9m, and wall heights above 7m do not present unreasonable environmental impacts given the modified elements which vary the control are central to the site and will be largely absorbed within the approved built form, and align with the height of the adjacent properties. Further, any additional shadow cast by the modified development is negligible.*



In review of the justifications above, it is agreed that the proposed modifications do not create additional overshadowing or visual privacy concerns, and do not adversely impact the visual amenity of the area as the non-compliance remains within the overall built form.

When numerically viewed in isolation, the proposed increases to height, roof and floor levels are minor design amendment. However, for the following reasons and discussions below, the proposed modifications, when viewed as a whole, are unnecessary when comparing the proposal with the approved development and the designs of the adjoining developments. In particular, the discussions presented below take into consideration the context of the proposal against the building designs, existing and approved roof and height levels and departures to the development standards.

#### Comparisons of the Approved Development and Development as Modified



**Figure 2:** Section AA Source: DA-305/2022/A Stamped Plans



In the determination of DA-305/2022, the variations to height of building was not simply to accommodate additional height, rather it was the applicants request to accommodate living areas on the ground floor level to the rear of the central lift/access 'core'. The approved development represents a contemporary design that appropriately responds to the contours and slope of the site and demonstrates a reasonable built form with desirable amenity despite the departures from the height of buildings development standards. The proposed changes to further consolidate the ground floor and reduce the ground floor internal steps deviates from the careful consideration undertaken during the assessment of the DA-305/2022.

As such, it is considered that the proposed modifications are an unnecessary in this circumstance as the design of the approved development achieves great internal amenity and connectivity and remains a desirable outcome for the future occupants.

#### Comparison of Proposed Design and Adjoining Developments

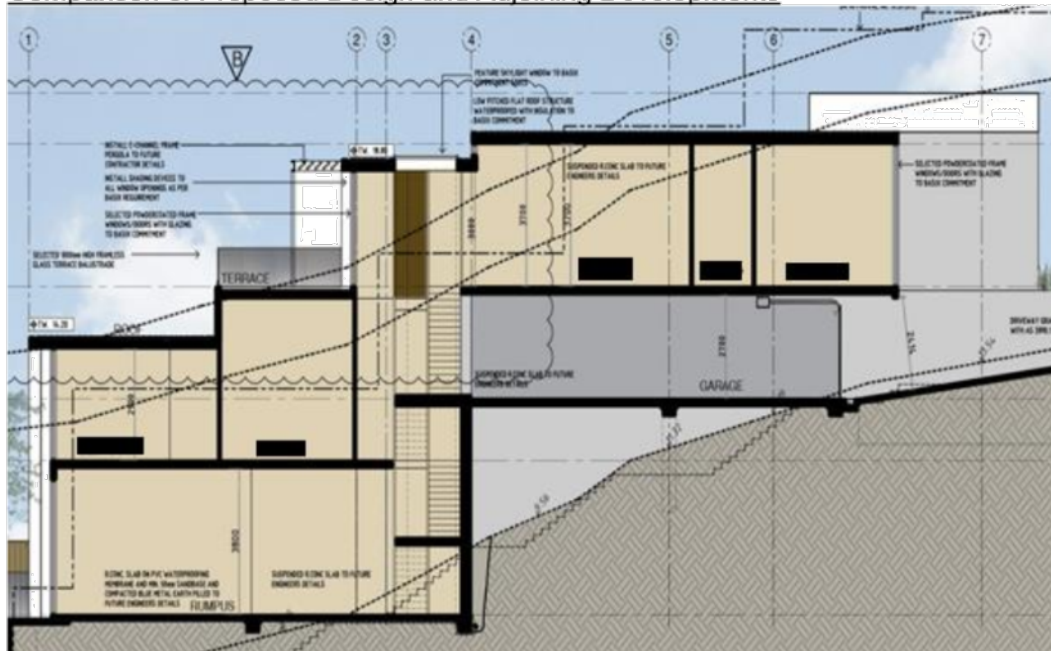
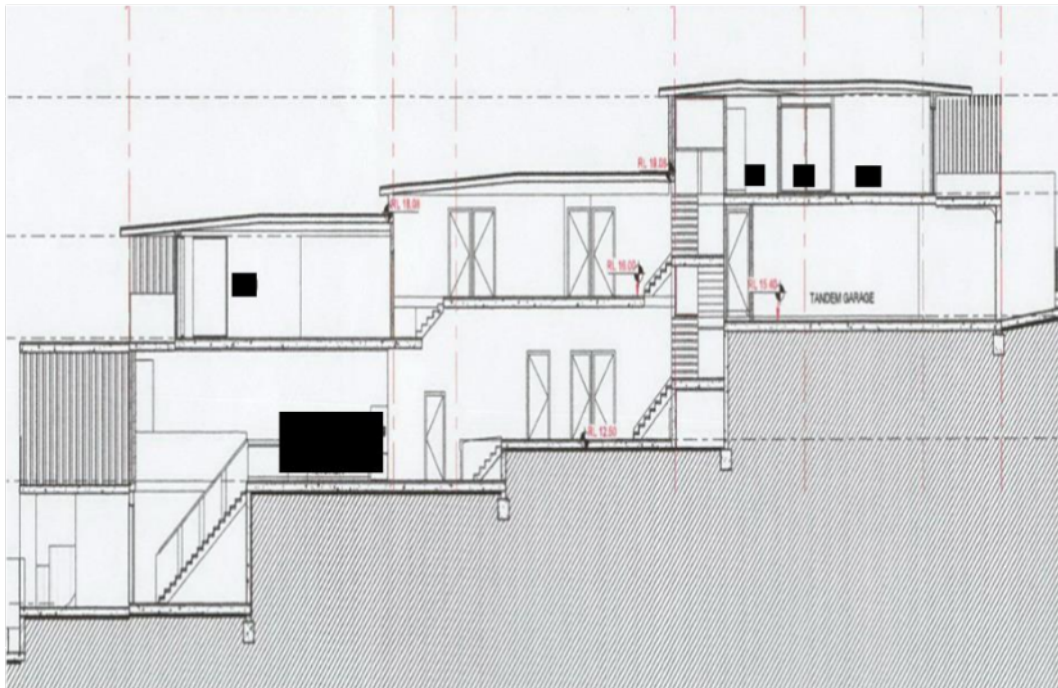


Figure 4: Section BB (39 Burbank Ave)

Source: DA-792/2016 Stamped Plans





**Figure 5:** Section A (51 Burbank Ave)

Source: DA-1150/2016 Stamped Plans

As shown in figures 4 and 5 above, the approved development individuates itself from the adjoining developments, whereby the departures supported in DA-305/2022 arises from the large building mass (ground floor family room) beyond the central lift/access 'core'. As discussed above, the proposed consolidation of the ground floor family room results in the further numerical departure from the heights of building development standards.

When comparing the floorplates, floor levels and design of the adjoining developments, it is noticeable that the adjoining designs do not incorporate any large building mass beyond their respective central lift/access 'core' and do not consist of a long single floor level. Similarly, the approved development, with split floor levels and a sizeable family room, represents a compatible built form that takes into consideration the topography of the site. However, the development as modified represents a design that is not appropriate for the topography of the site and a design that is uncharacteristic with the stepped and staggered floor levels apparent in the approved and adjoining developments.

The non-compliances with the heights of building at No. 39 Burbank Avenue, as approved by Council in DA-792/2016, occurs at the roof corner of the central lift/access 'core', whereas the non-compliance with wall height at No. 51 Burbank Avenue, as approved by Council in DA-1150/2016, occurs on a small section of the south-western corner of the upper floor i.e. the rear façade. In contrast, the non-compliances of the approved development and development as modified remains solely at the roof level of the ground floor family room that sits beyond the central lift/access 'core'.

It is important to note that the departures supported in the approved design considered a large building mass element beyond the central lift/access 'core' that is absent from the design of the immediate adjoining properties. As such, it is considered that the approved development represents the maximum departures that Council was willing to support. The proposed development as modified seeks to worsen the approved built form that is not compatible the slope and topography of the site.

The table below summarises the approved heights of the subject and adjoining sites versus the proposed modifications:

Heights of Building	No. 39 Burbank	No. 51 Burbank	Approved Development	Proposed Development
Wall Height	11.8m	7.633m	9.864m	10.864m
Building Height	11.8m	8.213m	10.264m	11.264m
Roof levels	18.80 RL	18.08 RL	17.40 RL	18.40 RL

In review of the table above, the proposed modification results in the development being 320mm taller than the development at No. 51 Burbank Avenue and 400mm shorter than the development at No. 39 Burbank Avenue.

While the proposed modifications will have minor overshadowing and visual privacy impacts to the adjoining dwellings, in particular the southern adjoining development at No. 51 Burbank. It is also important to note that the proposed changes will not significantly improve to the amenity, solar access and views of the approved development. In this regard, the proposed modifications strictly relate to desired design changes, that consequently results in further departures from the development standards.

For the reasons as discussed above, the proposed modifications are unnecessary given that the approved development, with the sizeable family room, is compatible with the topography and slope of the site and is an appropriate built form in the context of the adjoining properties. The approved development still achieves great internal amenity, sufficient solar access and views to Georges River.

In addition, the further departures from the heights of building development standards is strictly a consequence of the proposed modifications and design changes, rather than it being a response to the constraints of the site. The development as modified seeks a departure to the appropriate built form and results in a large single floor plate that is not compatible with the slope of the site. As such, it is considered that the modification application is not worthy of support.

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

There are no draft environmental planning instruments applicable.

**Development control plans [section 4.15(1)(a)(iii)]****Canterbury-Bankstown Development Control Plan 2023**

The following development controls of the Canterbury-Bankstown Development Control Plan 2023 were taken into consideration:

<b>Canterbury-Bankstown Development Control Plan 2015</b>					
<b>Chapter 5.1 Former Bankstown LGA</b>					
<b>Clause</b>	<b>Development Control</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
<b>Section 4—Dual Occupancies</b>					
4.3	The siting of dual occupancies, and landscape works must be compatible with the existing slope and contours of the site and any adjoining sites. Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.	The proposed consolidation of the ground floor family room requires the raising of the approved GF FFL by 1m, which results in a predominantly long single floor plate that is not compatible with the existing slope and contours of site.		✓	
4.9	Side setbacks.  Minimum 1.5m side setback for wall height greater than 7m.	1.5m side setbacks for WH > 7m retained. No proposed modifications to side setback.	✓		
4.14	Overshadowing.  Minimum 3 hours to adjoining living areas.	In consideration of the proposed height of buildings increases, the submitted shadow diagrams demonstrates that the adjoining southern dwelling retain at least three hours of solar access between 8am and 12pm during the midwinter solstice. It is considered that there are minimal overshadowing impacts.	✓		
4.15	Overshadowing.  Minimum 3 hours to 50% POS of the property and adjoining sites.	In consideration of the proposed height of buildings increases, the submitted shadow diagrams demonstrates that at least 50% of the POS on the subject site and adjoining allotments retain three hours of solar access between 9:00am to 5:00pm during the equinox. It is considered that there are minimal overshadowing impacts.	✓		



Canterbury-Bankstown Development Control Plan 2015					
Chapter 5.1 Former Bankstown LGA					
Clause	Development Control	Proposed	Y	N	NA
Section 4—Dual Occupancies					
4.16	Overshadowing.  Avoid overshadowing any existing photovoltaic panel or other solar collector on adjoining properties.	In consideration of the proposed height of buildings increases, the proposed development does not overshadow the solar panels on No. 39 Burbank Ave. There are no existing solar, thermal or electrical systems on No. 51 Burbank Avenue. It is considered that there are minimal overshadowing impacts.	✓		
4.17	Visual privacy to adjoining windows.	The windows on the upper Ground Floor have been adjusted due to the increased GF FFL. It is considered that there are minimal visual privacy impacts.  The windows remain the same size, are offset, do not look directly into the areas of the adjoining dwellings, or achieve sill heights of 1.5m above the amended FFL. It is considered that there are minimal visual privacy impacts.	✓		
4.18	Visual privacy to rear balconies.  Maximum 1.5m width, not accessible of living spaces and incorporate screening.	The uppermost balcony FFL has been increased by 1m. The planter boxes and side privacy screens along the side balustrades, prevent access to the balcony edges and reduced overlooking to the adjoining properties. The main view over Georges River retained. It is considered that there are minimal visual privacy impacts.	✓		

As demonstrated above, the proposed modifications are generally compliant with the development controls contained in the CBDP 2023, except for Clause 4.3 in Chapter 5.1.

**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)]**

It is noted that potential impacts, with regards to overshadowing, visual privacy, bulk and scale, and streetscape presentation on the immediate locality, were carefully considered and found to be acceptable in the assessment of the original application.

Despite the non-compliances with the heights of building development standard, it is considered that the proposed development as approved demonstrates an appropriate built form with desirable amenity that is compatible with the existing topography and slope of the subject site.

For this reason above, it is Council's view that the original design is maintained so that the impact as assessed in the original application remains unchanged.

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

The proposed modifications do not alter the sites suitability for the subject development.

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

No submissions were made during the assessment of the application in relation to the proposed modifications.

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

The proposed modifications will result in a design that is not compatible with the existing topography and slope of the subject site and is also not in keeping with the current and future design of the immediate locality. As such, the proposed development as modified is not in the public interest.

**CONCLUSION**

The Modification Application has been assessed against the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and assessed against, *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *Canterbury-Bankstown Local Environmental Plan 2023* and *Canterbury-Bankstown Development Control Plan 2023*, and are not consistent with the objectives and development standards.

It is considered that the proposed modifications are unnecessary as the further departures to the development standards relate only to final design changes rather than being a result of site constraints. In addition, it is more apparent when taking into consideration the approved development and the adjoining designs, that the proposed modifications undermines the careful consideration and assessment undertaken in DA-305/2022.

For the reasons outlined above, the Modification Application No. DA-305/2022/B is not worthy of support.



### **REASONS FOR REFUSAL**

The Canterbury-Bankstown Local Planning Panel, as the determining authority under the provisions of the Environmental Planning and Assessment Act 1979, gives notice under Section 4.16 of the Act, that the Development Application, described above, is refused for the following reasons:

1. The development, as proposed to be modified, is inconsistent with objective (j), as set out in Clause 1.2 of the CBLEP 2023 with regards to achieving good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*];
2. The development, as proposed to be modified, is inconsistent with the objectives of the R2 – Low Density Residential zone, as set out in Clause 2.3 of the CBLEP 2023 with regards to promoting a high standard of urban design and local amenity. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*];
3. The development, as proposed to be modified, does not demonstrate compliance with Clause 4.3 of the *Canterbury-Bankstown Local Environmental Plan 2023* with regards to the maximum allowable building height and wall height. [Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*];
4. The development, as proposed to be modified, is inconsistent with the objective O3, as set out in Section 1 of Chapter 5.1 of the CBDCP 2023 with regards to achieving good design in terms of building form, bulk, architectural treatment, visual amenity and landscape. [Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979*];
5. The development, as proposed to be modified, does not demonstrate compliance with Clause 4.3 in Chapter 5.1 of the *Canterbury-Bankstown Development Control Plan 2023* with regards to siting of dual occupancies with the existing slope and contours of site. [Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act, 1979*];
6. The proposed modifications would promote a built form that is incompatible with the assessment of likely impacts undertaken for the original DA.
7. The site is considered unsuitable for the proposed modifications due to the reasons outlined above. [Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act, 1979*];
8. For the reasons stated above, it is considered that the development, as proposed to be modified, is not in the public interest [Pursuant to 4.15(1)(e) of the *Environmental Planning & Assessment Act 1979*].

- END -



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## Canterbury Bankstown Local Planning Panel - 8 May 2024

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<b>ITEM 5</b>	<b>57 Stoddart Street, Roselands</b>
	<b>Demolition of existing structures and construction of a 40 place child care centre with basement parking</b>
<b>FILE</b>	<b>DA-135/2023 – Bunmarra / Roselands Ward</b>
<b>ZONING</b>	<b>R3 Medium Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>3 March 2023</b>
<b>APPLICANT</b>	<b>Chris Tsioulos</b>
<b>OWNERS</b>	<b>Chris Tsioulos and Maria Tsioulos</b>
<b>ESTIMATED VALUE</b>	<b>\$3,310,000</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to the Canterbury-Bankstown Local Planning Panel in accordance with Schedule 2 of the Ministerial Direction “Local Planning Panel Directions - Development Applications and Applications to Modify Development Consents” issued under section 9.1 of the *Environmental Planning and Assessment Act 1979*. The subject application is defined as ‘contentious development’ being one which has received 10 unique submissions by way of objection.

Development Application No. DA-135/2023 proposes the demolition of existing structures and construction of a 40-place child care centre with basement parking.

DA-135/2023 has been assessed against the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* requiring, amongst the thing, an assessed against the provisions within *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *Education and Care Services National Regulations*, *NSW Child Care Planning Guideline*, *Canterbury-Bankstown Local Environmental Plan 2023*, *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012*.



The proposed development is generally compliant with the aforementioned planning legislations and environmental planning instruments, except for Clause C5 in F8.2 General Controls of the Canterbury Development Control Plan 2012. However, it is considered that the proposed development appropriately responds to the topography of the site, and would be compatible in terms of design, streetscape appearance, bulk and scale with the residential developments along Stoddart Street. In addition, the proposed development has been designed to consider the overland flowpath and minimise the impact on downstream properties.

The application was neighbour notified and advertised for a period of twenty-one days between 15 March 2023 and 4 April 2023 and renotified and readvertised following the submission of amended plans again for a further period of twenty-one days between 6 September 2023 and 26 September 2023. A total of ten submissions across 29 properties have been received. The submissions raised issues in relation to traffic impact and safety, visual and acoustic privacy, permissibility, overdevelopment, waste management, tree removal, overshadowing, accessibility and stormwater management. Each of these issues are addressed Attachment A.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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It is recommended development application DA-135/2023 be approved subject to the conditions set out in Attachment B - Conditions of Consent.

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **DA-135/2023 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is legally described as Lot 9 Section 4 in Deposited Plan 4494, however is more commonly known as 57 Stoddart Street, Roselands. The site is zoned R3 Medium Density Residential as prescribed in the Land Use Table in the Canterbury Local Environmental Plan 2012.

The subject site is a rectangular-shaped allotment with an area of 919.19m<sup>2</sup>, a primary frontage to Stoddart Street of 15.85m, and site depths of approximately 60.5m. The subject site has a fall of 4.14m to the rear from RL 47.84 (front) to RL 43.70 (rear).

The subject site is subject to stormwater inundation from an overland flowpath during large storm events, requiring that all habitable floor levels to be at least 500mm above the standard flood level.

The subject site is currently occupied by a part single-storey and part two-storey dwelling with a rear detached outbuilding, a swimming pool, and various site trees. The site is surrounded by various residential land uses consisting of dwellings, dual occupancies, multi dwelling housing, and secondary dwellings. It is noted that 110m south of the subject site, at No. 73 Stoddart Street, is an approved 42-place child care centre that is currently under construction.



**Figure 1:** Aerial photo of the subject site

Source: NearMaps 2021

## **PROPOSED DEVELOPMENT**

DA-135/2023 proposes the demolition of the existing site structures and the construction of a 40-place centre-based child care centre with basement parking. Table 1 provides further details in relation to the proposed development.

<b>Table 1</b>	
<b>Floor</b>	<b>Proposed</b>
Basement	<ul style="list-style-type: none"> <li>• 5 Staff Parking spaces</li> <li>• 3 Drop Off/Pick Up Parking spaces (including one accessible parking space)</li> <li>• Reversing Bay</li> <li>• Bicycle storage</li> <li>• Storage room</li> <li>• Main staircase and lift access</li> </ul>
Ground Floor	<ul style="list-style-type: none"> <li>• Reception and front lobby area</li> <li>• Staff kitchen and Office room</li> <li>• Storage room</li> <li>• Laundry room</li> <li>• Bin storage room</li> <li>• Accessible bathrooms</li> <li>• Main staircase and lift access</li> <li>• 8 space indoor play room (Ages 0-2)</li> <li>• 22 space indoor play room (Ages 3-5)</li> <li>• 40 space outdoor play area</li> </ul>
First Floor	<ul style="list-style-type: none"> <li>• Staff room and office</li> <li>• Accessible bathrooms</li> <li>• 10 space indoor play room (Ages 2-3)</li> <li>• Main staircase and lift access</li> <li>• Rear staircase access to ground floor covered outdoor play area</li> </ul>

The proposed hours of operation are 7:00am to 6:00pm Monday to Fridays.

### **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:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Education and Care Services National Regulations
- NSW Child Care Planning Guideline
- Canterbury-Bankstown Local Environmental Plan 2023
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

**SECTION 4.15 ASSESSMENT**

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

**Environmental planning instruments [section 4.15(1)(a)(i)]****State Environmental Planning Policy (Biodiversity and Conservation) 2021****Chapter 2 Vegetation in non-rural areas**

Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the removal of vegetation in non-rural areas of the State and aims to preserve the amenity of these areas through the preservation of trees and other vegetation.

The SEPP applies to the subject site as the application is seeking the protection of Brush box (T2) tree located on the nature strip, retainment of a number of Leighton Green trees lining the rear and side boundaries and removal of Eucalyptus (T1) site tree. The application was referred to Council's Tree Management Officer where they had no objection to the removal of the Eucalyptus (T1) tree, subject to conditions for tree protection with respect to the Brush box (T2) tree and the Leighton green trees, tree replanting. As such, the proposal satisfies the aims and objectives of Chapter 2 of this SEPP.

**State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4, Section 4.6 requires a consent authority to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, the consent authority must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, the consent authority must be satisfied that the land will be remediated before the land is used for that purpose.

The applicant has submitted a Detailed Site Investigation (DSI), in support of the application, prepared by Foundation Earth Sciences 2023, titled "*Detailed Site Investigation (DSI), Property Address 57 Stoddart Street, Roselands NSW*", dated 9 June 2023, Ref: E2930-2. The report concludes that the subject site is suitable for the proposed development subject to the following:

- Any soil requiring removal from site, as part of future siteworks, should be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW EPA (2014).
- Any unexpected finds protocol should be followed during the evacuation phase of the development.

The development application and DSI have been referred to Council's Environmental Health Officer who have no objections to the development proceeding, subject to conditions of consent.



Having regard to the assessment above, the applicant has demonstrated that the site is suitable for the proposed development. As such, the proposed development satisfies the provisions of Chapter 4 of this SEPP.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 3 Educational establishments and child care facilities of State Environmental Planning Policy (Transport and Infrastructure) 2021 applies to educational establishments and child care facilities and aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State. The proposed development has been assessed against the requirements Chapter 3 of this SEPP.

In particular, provision 3.26 Centre-based child care facility—non-discretionary development standards identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.

#### **Location**

It is considered that the location of the proposed development is suitable. It is noted that the development controls contained in F2 Child Care Centres in Part F Specific Land Uses and Specific Sites of the Canterbury Development Control Plan 2012, regarding location and proximity, are not applicable and are superseded by provision 3.26.

#### **Indoor or Outdoor Space**

The proposal is compliant with indoor space and outdoor play space requirements in regulation 107 and 108 of the Education and Care Services National Regulations. Further details and calculations are provided in the Education and Care Services National Regulations section below.

In addition, provision 3.23 Centre-based child care facility—matters for consideration requires an assessment against the applicable provisions of the Child Care Planning Guideline. The assessment is provided in the NSW Child Care Planning Guideline section below.

#### **Education and Care Services National Regulations**

The Education and Care Services National Regulations sit under Children (Education and Care Services) National Law (NSW), which aims to establish care service quality frameworks for child care centres within NSW. Specifically, the Act seeks to ensure the safety, health and wellbeing of children attending services, improve educational and development outcomes and promote continuous improvement of service providers. The Regulations assist in establishing a set of standards to be met by individual child care facilities. The proposed development has been assessed against the relevant and applicable requirements and design criteria of the Education and Care Services National Regulations, which are summarised in the table below.

<b>Table 2: Education and Care Services National Regulations</b>					
<b>Clause</b>	<b>Requirement / Design Criteria</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>

Table 2: Education and Care Services National Regulations					
Clause	Requirement / Design Criteria	Proposed	Y	N	NA
<b>Part 4.3 Physical Environment</b>					
<b>Division 1 Centre-based services and family day care services</b>					
<a href="#">Cl. 104</a>	Fencing				
	The approved provider of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The ground floor covered and uncovered outdoor play areas are enclosed suitably.	✓		
<a href="#">Cl. 106</a>	Laundry and hygiene facilities				
	The approved provider of an education and care service must ensure that the service has— a. laundry facilities or access to laundry facilities; or b. other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering—	The proposed development includes a laundry room, a cot room, a nappy change room and storage areas.	✓		
	The approved provider of the service must ensure that laundry and hygienic facilities are located and maintained in a way that does not pose a risk to children.	The proposed laundry and hygienic facilities are appropriately located and accessible.	✓		
<a href="#">Cl. 107</a>	Space Requirements – indoor space				
	The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 3.25 square metres of unencumbered indoor space.	Playroom 0 – 2 27.9m <sup>2</sup> / 3.25m <sup>2</sup> = 8.6 children. Proposed 8 children. Playroom 2 – 3 32.6m <sup>2</sup> / 3.25m <sup>2</sup> = 10.0 children. Proposed 10 children. Playroom 3 – 5 74.5m <sup>2</sup> / 3.25m <sup>2</sup> = 22.9 children. Proposed 22 children. Proposed 40 place child care centre.	✓		
	In calculating the area of unencumbered indoor space— a. the following areas are to be excluded— i. any passageway or thoroughfare (including door swings); ii. any toilet and hygiene facilities; iii. any nappy changing area or area for preparing bottles; iv. any area permanently set aside for the use or storage of cots; v. any area permanently set aside for storage; vi. any area or room for staff or	The nominated exclusion areas have not been included in the unencumbered indoor space calculations.	✓		



Table 2: Education and Care Services National Regulations					
Clause	Requirement / Design Criteria	Proposed	Y	N	NA
	administration; vii. any other space that is not suitable for children; b. the area of a kitchen is to be excluded, unless the kitchen is primarily to be used by children as part of an educational program provided by the service.				
<a href="#">Cl. 108</a>	Space Requirements – outdoor space				
	The approved provider of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space.	Outdoor Area 296m <sup>2</sup> / 7m <sup>2</sup> = 42.3 Children. Proposed 40 Children.	✓		
	In calculating the area of unencumbered outdoor space required, the following areas are to be excluded— a. any pathway or thoroughfare, except where used by children as part of the education and care program; b. any car parking area; c. any storage shed or other storage area; d. any other space that is not suitable for children.	The nominated exclusion areas have not been included in the unencumbered outdoor space calculations.	✓		
<a href="#">Cl. 109</a>	Toilet and hygiene facilities				
	The approved provider of an education and care service must ensure that— a. adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and b. the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.	The proposed development includes toilets, accessible bathrooms and a laundry room. The location of these facilities are appropriate and accessible.	✓		
<a href="#">Cl. 110</a>	Ventilation and natural light				
	The approved provider of an education and care service must ensure that the indoor spaces used by children at the education and care service premises— a. are well ventilated; and b. have adequate natural light; and c. are maintained at a temperature that ensures the safety and wellbeing of children.	The proposed development is well ventilated, achieves adequate natural light and is able to maintain appropriate temperature control.	✓		
<a href="#">Cl. 111</a>	Administrative space				
	The approved provider of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of—	The proposed development includes a ground floor reception area with immediate access to a front lounge and	✓		

<b>Table 2: Education and Care Services National Regulations</b>					
<b>Clause</b>	<b>Requirement / Design Criteria</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
a. conducting the administrative functions of the service; and b. consulting with parents of children; and c. conducting private conversations.		foyer, office rooms and a first floor staff room.			
<b>Cl. 112</b>	<b>Nappy change facilities</b>				
The approved provider of the service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing.		The proposed development includes a laundry room and a nappy change room.	✓		
Without limiting subregulation (2), the approved provider of the service must ensure that the following are provided— a. if any of the children are under 3 years of age, at least 1 properly constructed nappy changing bench; and b. hand cleansing facilities for adults in the immediate vicinity of the nappy change area.		The nappy change room and cleaning facilities achieve the stated requirements.	✓		
The approved provider of the service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children.		Secure access to the nappy change room is proposed.	✓		
<b>Cl. 113</b>	<b>Outdoor space—natural environment</b>				
The approved provider of a centre-based service must ensure that the outdoor spaces provided at the education and care service premises allow children to explore and experience the natural environment.		The proposed outdoor areas achieve this requirement.	✓		
<b>Cl. 114</b>	<b>Outdoor space—shade</b>				
The approved provider of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.		The proposed outdoor areas provide adequate shading.	✓		
<b>Cl. 115</b>	<b>Premises designed to facilitate supervision</b>				
The approved provider of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children.		The proposed facilities provide windows with clear supervision from adjacent rooms, while limiting direct view from visitors in the main lobby and entrance areas. In addition, the rooms are designed to be rectangular that do not have corners where there are limited supervision.	✓		
<b>Part 4.4 Staffing Arrangements</b>					
<b>Division 3 Minimum number of educators and family day care co-ordinators required</b>					
<b>Cl. 123</b>	<b>Educator to child ratios—centre-based services</b>				
The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in		Age 0 – 24 months 8 Children / 4 = 2 staff required.	✓		

Table 2: Education and Care Services National Regulations					
Clause	Requirement / Design Criteria	Proposed	Y	N	NA
	accordance with the following ratios—	Age 24 – 36 months			
a.	for children from birth to 24 months of age—1 educator to 4 children;	10 Children / 5 = 2 staff required.			
b.	for children over 24 months and less than 36 months of age—1 educator to 5 children;	Age 36 months – preschool			
c.	for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children;	22 Children / 11 = 2 staff required.			
d.	for children over preschool age, 1 educator to 15 children.	Total 6 staff required. Proposed 7 staff.			

As seen above, the proposed development complies with the relevant requirements and design criteria of the Education and Care Services National Regulations.

### **NSW Child Care Planning Guideline**

Provision 3.23 Centre-based child care facility—matters for consideration in Chapter 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021 requires an assessment against the relevant provisions of the NSW Child Care Planning Guideline.

The considerations contained in the NSW Child Care Planning Guideline give guidance to applicants on how to design a high-quality proposal that takes account of its surroundings and any potential environmental impacts the development may cause. They also encourage applicants to be mindful of potential impacts that may arise from existing uses and conditions within a locality.

The Guideline must be considered by a consent authority when assessing a development application for a child care facility. The proposed development has been assessed against the relevant clauses and objectives of the NSW Child Care Planning Guideline, as summarised in the table below.

Planning Guideline, as summarised in the table below:

Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
The planning objectives of this Guideline are to:					
<ul style="list-style-type: none"><li>• promote high quality planning and design of child care facilities in accordance with the physical requirements of the National Regulations</li><li>• ensure that child care facilities are compatible with the existing streetscape, context and neighbouring land uses</li><li>• minimise any adverse impacts of development on adjoining properties and the neighbourhood, including the natural and built environment</li><li>• deliver greater certainty to applicants, operators and the community by embedding the physical requirements for service approval into the planning requirements for child care facilities</li></ul>					
3. Matters for Consideration					
3.1 Site selection and location					
Objective: To ensure that appropriate zone considerations are assessed when selecting a site			✓		
C1	Special consideration for low density residential, commercial,	The proposed development is suitable and appropriate in zone R3	✓		

<b>Table 3: Child Care Planning Guideline</b>					
<b>Clause</b>	<b>Objective</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
	industrial, public / private recreation zones and sites on school sites	– Medium Density Residential.			
Objective: To ensure that the site selected for a proposed child care facility is suitable for the use			✓		
C2	Site is environmentally safe from risk and contaminants.	The Detailed Site Investigation found that the site does not contain any contaminants. As such, the site is suitable for the proposed use.	✓		
Objective: To ensure that sites for child care facilities are appropriately located			✓		
C3	Site is near compatible land uses	The subject site is suitably located within a predominantly residential area.	✓		
Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards			✓		
C4	Avoidance of hazardous industry, petrol stations, etc.	The subject site is not in the proximity of any industrial or hazardous land uses.	✓		
<b>3.2 Local character, streetscape and the public domain interface</b>					
Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape			✓		
C5	Responds to character of area and reflects surrounding land uses.	The proposed built form, setbacks, building height and roof style presents similar to two-storey residential developments along Stoddart Street.  In addition, the front façade adopts suitable materials and finishes that are contemporary and compatible with the emerging residential developments along Stoddart Street.  As such, it is considered that the proposed development responds to the character of the area and reflects the designs of the surrounding residential land uses.	✓		
Objective: To ensure clear delineation between the child care facility and public spaces			✓		
C6	Achieves well designed fencing with passive surveillance.	The boundary fences are colorbond and designed to be unclimbable. The side setbacks have been designed to be straight and narrow to provide clear sightlines into the rear of the site.  In addition, the development has been designed where there are no corners or places with limited surveillance.	✓		
Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public			✓		



Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	domain.				
C9	Front fences and retaining walls must respond to and complement the context and character of the area and do not dominate the public domain	The front retaining wall has been designed to match the colour and materials of the front façade that do not visually dominate the public domain.	✓		
<b>3.3 Building orientation, envelope and design</b>					
	Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade		✓		
C11	Minimisation of privacy impacts, optimisation of solar access, avoidance of shadowing, minimisation of cut and fill and protection from wind	<p>The proposed development minimises privacy impacts by providing small windows that are sufficiently screened, achieve adequate sill heights or do not overlook into the living areas of the adjoining properties.</p> <p>The building height, roof design and built form allows for adequate solar access to the adjoining properties. In particular, the south adjoining development is able to achieve 4 hours of sunlight into the internal habitable areas during the morning. Further, the proposal does not create significant overshadowing to the private open spaces on the immediate adjoining properties.</p> <p>In addition, the orientation and layout of the proposed development allows for adequate sunlight into the internal areas via north, east and west facing windows. Additional skylights are provided to allow for natural lighting to enter parts of the development where there is no direct sunlight access.</p> <p>Further, the retainment of the Leighton Green trees lining the rear and side boundaries, provide a natural barrier and protection from southerly and westerly winds.</p> <p>In addition, there is minimal fill proposed as the development does not involve excessive platforming. Whereas, the proposed cut is confined only to the proposed basement which does not include excess area that are not used for access, vehicular movements, storage or required parking. It is noted that there is an additional staff</p>	✓		

Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
		parking space, above the minimum parking requirements, as discussed below. However, it is not considered that the parking space will contribute to the overall bulk and scale of the development.			
	Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised		✓		
C12	Height and setbacks are consistent with locality 0.5:1 FSR applies where an LEP does not specify	<p>The proposed building is within the predominant height line of Stoddart Street, in particular when viewed against the dual occupancy dwellings at No. 53 and 55 Stoddart Street.</p> <p>In addition, the proposed front and side setbacks are comparable to the newer and existing residential developments along Stoddart street. In addition, the first floor side and rear setbacks create articulation and results in a design that compatible with the bulk and scale of the locality.</p> <p>It is noted that Clause 4.4 of the Canterbury Local Environmental Plan 2012, prescribes a maximum 0.5:1 FSR. Further details and calculations are provided in the CLEP 2012 section below.</p>	✓		
	Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context		✓		
C13	Where there are no prevailing setback controls, minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.	The proposed 6m primary setback is consistent with the primary setback development controls for residential developments in the CDCP 2012. While there are not setback controls specified in the CDCP 2012, the proposed primary setback is similar to the prevailing setback of Stoddart Street i.e. an average of 6m.	✓		
C14	Consideration for prevailing side and rear setbacks on residential land	<p>The proposed side setbacks are 1m and is consistent with the prevailing side setbacks of the existing and newer developments along Stoddart Street.</p> <p>In addition, the proposed rear setback, size of the private open space and building depth are</p>	✓		



Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
		comparable to the recent two-storey developments at No. 53 and 55 Stoddart Street, and the two-storey developments further along Stoddart Street. It is considered that the built form, side and rear setbacks are compatible with the prevailing locality.			
	Objective: To ensure that buildings are designed to create safe environments for all users.		✓		
C15	Entry to the facility should be visible from the street with easy pedestrian access.	The proposed entry is safe and accessible via the direct pedestrian access from the streetscape. The large windows on the front façade allows for clear monitoring of the streetscape.	✓		
	Objective: To ensure that child care facilities are designed to be accessible by all potential users.		✓		
C16	Accessible design outside the development can be achieved. The National Construction Code, the Discrimination Disability Act 1992 and the Disability (Access to Premises – Buildings) Standards 2010 set out the requirements for access to buildings for people with disabilities.	The proposed development includes lifts and wheelchair ramps throughout the internal and external areas of the child care centre with direct access to different rooms and facilities.  In addition, the basement parking includes a disabled/pram parking space with direct access to the lift. As such, it is considered that the proposal is consistent with the relevant legislations.	✓		
<b>3.4 Landscaping</b>					
	Objective: To provide landscape design that contributes to the streetscape and amenity.				
C17	Provide appropriate planting and landscaping around the development	The proposed development includes additional planting of trees around the site, which has been detailed in the submitted landscape plan.  In addition, the proposal seeks to protect the existing street tree and retain the existing Leighton Green trees lining the side and rear boundaries.  Furthermore, the landscape plan details adequate planting in the front landscape to enhance the visual appearance from the streetscape.	✓		
C18	Parking areas should be incorporated into the landscape design	The proposed parking areas are located within the basement.	✓		
<b>3.5 Visual and acoustic privacy</b>					

Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
Objective: To minimise impacts on privacy of adjoining properties.			✓		
C21	Minimise direct looking into adjoining neighbour areas	The proposed windows on the north elevation are designed to be small and achieve adequate sill heights, 1.5m above the finished floor level, to reduce overlooking impacts into the adjoining properties.  In addition, the vertical slat design along the south elevations on the first floor assists in reducing visual privacy impacts onto the adjoining neighbour.	✓		
Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.			✓		
C22	New developments should provide acoustic privacy to adjacent residential dwellings	The submitted Acoustic Report has been assessed and found to be supportable by Council's Environmental Health Officer, subject to conditions of consent.  In particular, the Acoustic Report requires acoustic barriers and acoustic louvres to be installed around sensitive areas of the development i.e. the outdoor play area and ground floor balcony.	✓		
C23	Acoustic report should be prepared by a suitably qualified acoustic professional	The acoustic report was prepared by a suitably qualified acoustic professional.	✓		
<b>3.6 Noise and air pollution</b>					
Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.			✓		
C24	Adopt acoustic design solutions to minimise noise impacts.	The proposed development includes acoustic barriers and perimeters, to be installed across sensitive locations of the development i.e. outdoor play areas and veranda play area.  The Plan of Management adopts specific outdoor play policies and play schedules to minimise noise impacts. In addition, centre wide policies are also enforced for staff, visitors and parents during the operation of the development. There are also reporting and noise minimising procedures in place to reduce the noise impacts on the neighbouring properties.	✓		
<b>3.7 Hours of operation</b>					
Objective: To minimise the impact of the child care facility on the amenity of			✓		

Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	neighbouring residential developments.				
C28	Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays.	The proposed hours of operation are 7:00am to 6:00pm Monday to Fridays.	✓		
<b>3.8 Traffic, parking and pedestrian circulation</b>					
	Objective: To provide parking that satisfies the needs of users and demand generated by the centre.		✓		
C30	Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	CDCP 2012 requires 1 space per 2 staff parking rate, per DCP. 7 staff members / 2 = 3.5 staff parking required. CDCP 2012 requires 3 drop off/pick up spaces required for child care centres with up to 31-40 children. 5 staff parking spaces and 3 drop off/pick up car spaces proposed. It is noted that the one excess staff parking does not contribute to the bulk and scale of the basement, and would meet the requirements of the proposed use. No bicycle parking requirements. However, 10 bicycle parking spaces proposed. No car wash bay required.	✓		
C32	A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses, to optimise the safety and convenience of the parking area(s) and demonstrate how impacts on amenity will be minimised.	The traffic report submitted in support of the proposal was referred and found to be supportable by Council's Traffic Management Officer, subject to conditions of consent.	✓		
	Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flow.		✓		
C34	Child care facilities in cul-de-sacs or narrow roads should ensure safe access to the site.	The proposed development facilitates safe vehicular access to the site, where vehicles are able to enter and exit the basement parking in the forward direction. It is noted that Stoddart Street is not a narrow street.	✓		
	Objective: To provide a safe and connected environment for pedestrians both on and around the site.		✓		

Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
C35	Safe pedestrian access and design	<p>The pedestrian access is separated from the vehicular access to the basement car park, and achieves safe and direct access to the front entry of the proposed development.</p> <p>In addition, vehicles are able to enter and exit the site in the forward direction.</p> <p>A condition will be recommended in the consent requiring sight triangles, in accordance with AS 2890.1: Figure 3.3, to be shown on construction certificate plans, to ensure that there is safe and clear areas for pedestrian movement across the vehicular access of the site.</p>	✓		
C37	Car parking design should consider accessibility and safety.	<p>The proposed basement parking provides an accessible/pram parking space which has direct access to the main access lift. It is noted that there are no direct pedestrian access along the basement ramps proposed.</p>	✓		
4. Applying the National Regulations to Development Proposals					
4.1 Indoor space requirements					
<p>Regulation 107: The proposed development includes at least 3.25m<sup>2</sup> of unencumbered indoor space for each child. Refer to regulation 107 of the Education and Care Services National Regulation for further information on calculating indoor space.</p> <p><b>Storage</b></p> <p>Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas need to be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> <li>a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul>		<p>Playroom 0 – 2 27.9m<sup>2</sup> / 3.25m<sup>2</sup> = 8.6 Children. Proposed 8 children.</p> <p>Playroom 2 – 3 32.6m<sup>2</sup> / 3.25m<sup>2</sup> = 10.0 Children. Proposed 10 children.</p> <p>Playroom 3 – 5 74.5m<sup>2</sup> / 3.25m<sup>2</sup> = 22.9 Children Proposed 22 Children. Proposed 40 place child care centre.</p> <p>Internal Storage 40 x 0.2m<sup>3</sup> = 8m<sup>3</sup> required 40.25m<sup>3</sup> storage provided.</p> <p>External Storage 40 x 0.3m<sup>3</sup> = 12m<sup>3</sup> required 21.35m<sup>3</sup> storage provided.</p>	✓		
4.2 Laundry and hygiene facilities					
<p>Regulation 106: The proposed development includes</p>		<p>The proposed development includes a laundry room, a cot room, a nappy</p>	✓		



Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering. Laundry/hygienic facilities are located where they do not pose a risk to children	change room and storage rooms that are appropriately located and accessible.			
<b>4.3 Toilet and hygiene facilities</b>					
Regulation 109:	The proposed development includes adequate, developmentally and age appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service. The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.	The proposed children's toilet, washing and drying areas are safe and convenient for children.	✓		
<b>4.4 Ventilation and natural light</b>					
Regulation 110:	The proposed development includes indoor spaces to be used by children that <ul style="list-style-type: none"> <li>will be well ventilated; and</li> <li>will have adequate natural light; and</li> <li>can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>	The proposed indoor spaces achieve the stated requirements.	✓		
<b>4.5 Administrative space</b>					
Regulation 111:	The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations. Note: This space cannot be included in the calculation of unencumbered indoor space – see regulation 107	The proposed development includes a ground floor reception area with immediate access to front lounge and foyer, office rooms and a first floor staff room.	✓		
<b>4.6 Nappy change facilities</b>					
Regulation 112:	Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.	The proposed development includes toilets, accessible bathrooms and a laundry room.  The location of these facilities are appropriate and can be supervised.	✓		
<b>4.7 Premises designed to facilitate supervision</b>					
Regulation 115:	A centre-based service must ensure that the rooms and facilities within the premises (including toilets,	The proposed rooms and facilities achieve simple rectangle layout which allows for clear supervisions	✓		



Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate adequate supervision of children at all times, having regard to the need to maintain their rights and dignity	at any corner of the rooms. In addition, internal windows and clear door allow for clear supervision between rooms and facilities, however have been located in areas away from view of visitors.			
<b>4.8 Emergency and evacuation procedures</b>					
	Regulations 97 & 168: Emergency procedures and evacuation. Risks associated with multi-storey buildings, including the appropriate child-to-staff ratios and emergency and evacuation plans, need to be assessed in the context of the service approval. Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency. This should take into consideration the number and age of the occupants, emergency and evacuation plans, the location of the facility and the relevant fire safety measures within the building	The submitted Plan of Management and Evacuation Plan details procedures for emergencies and evacuations. A condition of consent will require a final certification of the evacuation plan to be submitted to the Principal Certifying Authority. In addition, the Plan of Management and Evacuation Plans have been reviewed by Council's Environmental Health Officer and Building Surveyor who have found the application to be supportable. Further, a condition will be placed in the consent requiring that a final evacuation plan be reviewed by a suitably qualified person and submitted to the Principal Authority prior to the issue of a Construction Certificate. In addition, the final certification shall confirm that the evacuation plan meets the requirements of any relevant requirement, standard or legislation.			
<b>4.9 Outdoor space requirements</b>					
	Regulation 108: The proposed development includes at least 7.0m <sup>2</sup> of unencumbered outdoor space for each child. Refer to regulation 108 of the Education and Care Services National Regulation for further information on calculating outdoor space, and for different requirements for out-of-school-hours care services.	Outdoor Area 296m <sup>2</sup> / 7m <sup>2</sup> = 42.3 Children. Proposed 40 place child care centre.	✓		
<b>4.10 Natural environment</b>					
	Regulation 113: The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.	The proposed outdoor areas are appropriately designed for the use of children.	✓		
<b>4.11 Shade</b>					
	Regulation 114: The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded	The submitted shadow diagrams demonstrate that the uncovered outdoor play area will achieve a	✓		

Table 3: Child Care Planning Guideline					
Clause	Objective	Proposed	Y	N	NA
	<p>areas to protect children from overexposure to ultraviolet radiation from the sun.</p> <p>Outdoor play areas should:</p> <ul style="list-style-type: none"> <li>have a minimum of 2 hours of solar access between 8.00am and 4.00pm during winter months, for at least 30% (or 2.1m<sup>2</sup>) of the 7.0m<sup>2</sup> of outdoor space per child required.</li> <li>adequate shade for outdoor play areas is to be provided in the form of natural shade such as trees or built shade structures giving protection from ultraviolet radiation to at least 30 per cent of the outdoor play area</li> <li>have evenly distributed shade structures over different activity spaces.</li> </ul>	<p>minimum 2 hours of unobstructed solar access between 10:00am and 3:00pm.</p> <p>In addition, there is adequate shading provided by the covered outdoor play, structures and existing site trees in the uncovered outdoor play area throughout the day.</p>			
<b>4.12 Fencing</b>					
	Regulation 104: Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The ground floor covered and uncovered outdoor play areas are enclosed by suitable fencing.	✓		
<b>4.13 Soil assessment</b>					
	<p>Regulation 25: Subclause (d) of Regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:</p> <ul style="list-style-type: none"> <li>a soil assessment for the site of the proposed education and care service premises</li> <li>if a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken</li> <li>a statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</li> </ul>	The development application was referred and found to be supportable by Council's Environmental Health officer, subject to conditions of consent.	✓		

### **Canterbury-Bankstown Local Environmental Plan 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 3 March 2023 which predates the commencement of the CBLEP on 23 June 2023. Therefore, the application was assessed against the provisions contained in the Canterbury Local Environmental Plan 2012.

### **Canterbury Local Environmental Plan 2012**

The following table sets out the development standards and provisions of the Canterbury Local Environmental Plan 2012 that were taken into consideration in the assessment of the development application.

assessment of the development application

Table 4: Canterbury Local Environmental Plan 2012																	
Clause	Objective	Proposed	Y	N	NA												
Part 1 Preliminary																	
1.2	Aim of Plans		✓														
Part 2 Permitted or prohibited development																	
2.1	Land use zones		✓														
2.2	Zoning of land to which Plan applies - Land Zoning Map		✓														
2.3	Zone objectives and Land Use Table		✓														
2.6	Demolition requires development consent		✓														
Part 4 Principal development standards																	
4.3	Height of buildings Max 9m Building Height	53.5 RL (roof RL) – 46.1 NGL = 7.4m. Measurement taken from the southwest corner of the first floor. The NGL is taken from the approximate location according to the survey plan.	✓														
4.4A(2)	Despite clause 4.4, the floor space ratio for non-residential development on land to which this clause applies must not exceed, if the land is in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—0.5:1.	<table><tr><th>Floor</th><th>Area</th></tr><tr><td>GF</td><td>311.3m<sup>2</sup></td></tr><tr><td>FF</td><td>129.3m<sup>2</sup></td></tr><tr><td>Total</td><td>440.6m<sup>2</sup></td></tr><tr><td>Site</td><td>919.2m<sup>2</sup></td></tr><tr><td>FSR</td><td>0.479:1</td></tr></table>	Floor	Area	GF	311.3m <sup>2</sup>	FF	129.3m <sup>2</sup>	Total	440.6m <sup>2</sup>	Site	919.2m <sup>2</sup>	FSR	0.479:1	✓		
Floor	Area																
GF	311.3m <sup>2</sup>																
FF	129.3m <sup>2</sup>																
Total	440.6m <sup>2</sup>																
Site	919.2m <sup>2</sup>																
FSR	0.479:1																
4.5	Calculation of floor space ratio and site area		✓														
Part 6 Additional local provisions																	
6.2	Earthworks		✓														

Table 4: Canterbury Local Environmental Plan 2012					
Clause	Objective	Proposed	Y	N	NA
6.3	Flood planning	<p>It is noted that the site is affected by overland flowpath for excess stormwater runoff from the upstream catchment towards the south west of the site (rear). Due to the location, layout and orientation of the built form, it is considered that the proposed development would not significantly affect the overland flow or result in detrimental impacts to downstream properties.</p> <p>Furthermore, the submitted Stormwater Systems Report requires that habitable floor levels to be raised 500mm above the standard flood level, which the proposed development achieves.</p> <p>In addition, the development application was referred and found to be supportable by Council's Development Engineer, subject to conditions of consent.</p>	✓		
6.4	Stormwater management	<p>The stormwater drainage design incorporates an on-site detention tank towards the rear of the building with a proposed connection to the existing stormwater pipe in the existing easement to the rear of No. 59 Stoddart Street. It is considered that the stormwater drainage design is acceptable and that there is no adverse impacts of stormwater runoff on adjoining properties with impacts reasonably avoided.</p> <p>In addition, the development application was referred and found to be supportable by Council's Development, subject to conditions of consent.</p>	✓		

As seen in the table above, the proposed development complies with the relevant development standards and provisions of the CLEP 2012.

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

**Draft Canterbury Bankstown Local Environmental Plan 2020**

There are no current draft environmental planning instruments applicable to this application.



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

**Canterbury Development Control Plan 2012 (CDCP 2012)**

It appropriate to apply the Canterbury Development Control Plan 2012 as the development application was lodged prior to the Canterbury-Bankstown Development Control Plan 2023 coming into effect on the 23<sup>rd</sup> of June 2023.

The following development controls and objectives of Part B General Controls and Part F Specific Land Uses and Sites of the Canterbury Development Control Plan 2012 were taken into consideration in the assessment of the development application. Note that the NSW Child Care Planning Guideline sets aside the provisions of a DCP except for those that relate to building height, rear and side setbacks, and car parking rates.

**Part B General Controls**

<b>Table 5: B1 Transport and Parking Canterbury Development Control Plan 2012</b>					
<b>Clause</b>	<b>Objective</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
<b>B1 Transport and Parking</b>					
<b>B1.2 Transport and Parking Requirements</b>					
<b>B1.2.2 General Parking Provisions</b>					
C1	Development must provide the number of car spaces, bicycle spaces and car wash bays as required by the rates in section B1.3.1 below.	7 staff members / 2 = 3.5 staff parking required. 5 staff parking and 3 drop off/pick up car space proposed. No bicycle parking requirements. 10 bicycle parking spaces proposed. No car wash bay required.	✓		
<b>B1.2.3 Traffic Impact Assessment</b>					
C1	A traffic impact assessment report, prepared by appropriately qualified transport consultants, is required: a) For the development listed in Table B1.1; b) For any development that would have a significant impact on the surrounding road, parking and/or the public transport system; and c) For any development where the site work will interrupt or have a significant impact on road and footpath activities.	The applicant has submitted a Traffic Impact Statement, prepared by a suitably qualified transport consultant, per the requirements of B1.2.3 for which child care centres are listed under Table B1.1.	✓		
C2	A Traffic Impact Assessment must assess the impacts the proposed development will have on traffic flow, cyclists, pedestrians, and local residents,	The submitted Traffic Impact Statement takes into consideration the existing traffic conditions of Canarys Road (north of site), traffic generation and road network			✓



<b>Table 5: B1 Transport and Parking Canterbury Development Control Plan 2012</b>					
<b>Clause</b>	<b>Objective</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
	businesses, parking facilities, schools, hospitals, public transport and emergency services.	<p>capacity on particularly the Canarys/Stoddart roundabout. It has been concluded, through models and analysis, that the traffic generated by the proposed development will not exceed environmental goals and will have minor traffic implications on the local streets i.e. additional 15% increase to the traffic flow of Stoddart Street in morning and afternoon peak periods.</p> <p>Furthermore, the proposal complies with the required parking rates as discussed above. As such the proposed development provides adequate on-site parking for staff and visitors. In addition a condition will be included in the consent to provide a sign for 'P10 timed parking' across the frontage of the site.</p> <p>Further, the development application and Traffic Impact Statement was referred and found to be supportable by Council's Traffic Management Officer, subject to conditions of consent.</p> <p>It is considered that the proposed traffic generation will not be significant and that the development is worthy of support.</p>			
<b>B1.3 Parking Provision Rates</b>					
<b>B1.3.1 General Parking Rates</b>					
C1	<p>Parking and other vehicle facilities required for each type of development are detailed in the table below.</p> <p>Note: Refer to Section B1.3.2 for accessible parking rates.</p>	<p>CDCP 2012 requires 1 space per 2 staff parking rate, per DCP.</p> <p>7 staff members / 2 = 3.5 staff parking required.</p> <p>CDCP 2012 requires 3 drop off/pick up spaces required for child care centres with up to 31-40 children.</p> <p>5 staff parking spaces and 3 drop off/pick up car spaces proposed. It is noted that the one excess staff parking does not contribute to the bulk and scale of the basement, and would meet the requirements of the proposed use.</p> <p>No bicycle parking requirements.</p>	✓		

Table 5: B1 Transport and Parking Canterbury Development Control Plan 2012					
Clause	Objective	Proposed	Y	N	NA
		However, 10 bicycle parking spaces proposed. No car wash bay required.			

B1.2: Parking Rates			
Land Use	Car Spaces	Servicing and Delivery	Bicycle Spaces
Child Care Centres	1 space per 2 staff.	-	Staff: Minimum 1 space per 4 staff.

Table 6: B5 Stormwater and Flood Management - Canterbury Development Control Plan 2012		Y	N	N/A
<p>Chapter B5 of the CDCP 2012 provides objectives and controls for stormwater and flood management. The applicant has submitted a Stormwater Drainage plans, Flood Risk Management report, Stormwater Systems report and Architectural plans, that have been referred and found to be supportable by Council's Development Engineer.</p> <p>In particular, the proposed stormwater drainage design achieves the general objectives of Chapter B5, in which the design is appropriate and does not compromise or damage the downstream properties. It is noted that the design involves an on-site detention, that is integrated to the rear of the building, and will connect to an existing stormwater pipe at the rear of No. 59 Stoddart Street. The Applicant has obtained consent from the adjacent land owner and submitted relevant easement plans demonstrating this connection.</p> <p>The subject site is affected by 100-year ARI flood &amp; PMF Extent Maps from Cooks River Overland Catchment Study. It is required that all habitable floor areas shall comply with the development controls specified in Chapter B5. It is noted that the proposed finished floor levels are well above the freeboard requirement and therefore complies with the relevant provisions of Chapter B5. In addition, the proposal is considered to have minimal impacts on the overland flow path due to the topography of the site (falls to the rear), and that the development is located and designed accordingly.</p> <p>Council's Engineer is satisfied that the documentation submitted, and the development proposed responds appropriately to the site with conditions of consent provided. The proposed development is considered to be compliant with the objectives and controls prescribed in Chapter B5 of the CDCP 2012 with regards to on-site detention, flood planning and runoff disposal requirements.</p>		✓		

<b>Table 7: B9 Waste Management - Canterbury Development Control Plan 2012</b>	<b>Y</b>	<b>N</b>	<b>N/A</b>
Chapter B9 of the CDCP 2012 provides objectives and controls for waste management. The applicant has submitted a Waste Management Plan and amended the Architectural plans to relocate the waste storage area in the basement level.  Council's Waste Management Officer is satisfied that the documentation submitted, and the development proposed can facilitate safe and efficient waste management. The proposed development is considered to be compliant with the objectives and controls prescribed in Chapter B9 of the CDCP 2012, subject to conditions of consent.	✓		

### Part F Specific Land Uses and Sites

In accordance with provision 3.26 Centre-based child care facility—non-discretionary development standards in the State Environmental Planning Policy (Transport and Infrastructure) 2021, the proposal is found to be compliant with development standards regarding to location, indoor and outdoor space, site area and site dimensions, and colour of building materials or shade.

As such, there are number of development controls in Part F of the CDCP 2012 that have been omitted from the table below, as they are superseded by provision 3.26 of the SEPP (Transport and Infrastructure) 2021.

<b>Table 8: F2 Child Care Centres - Canterbury Development Control Plan 2012</b>					
<b>Clause</b>	<b>Objective</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
<b>F2.2 Compliance with Licensing Requirements</b>					
C1	Before submitting a development application, it is recommended that applicants contact the relevant licensing authority (NSW Department of Education and Communities) to determine the requirements for licensing so that these can be incorporated into the design of the child care centre. Applicants will be required to lodge a statement with the development application that the proposal will comply with the Education and Care Services National Regulation and the National Quality Standard.	The applicant has provided a statement in the Statement of Environmental Effects advising that the proposal will be compliant with the Education and Care Services National Regulation and the National Quality Standard.	✓		
<b>F2.3 Location and Demand Analysis</b>					
C6	Child care centres are generally not supported within a cul-de-sac or dead end street.	Site is not within cul-de-sac or dead end street.	✓		
C9	Child care centres will not be permitted on major roads, or within 30m of a major road.	Not located on or within 30m of a major road. Stoddart Street is classified as a local street.	✓		
<b>F2.5 Residential Zones</b>					
C2	Child care centres located in a residential zone must be residential	The built form is comparable to the two-storey developments at	✓		

Table 8: F2 Child Care Centres - Canterbury Development Control Plan 2012													
Clause	Objective	Proposed	Y	N	NA								
	in external appearance and finishes and must be consistent with the nearby residential streetscape.	No. 53 and 55 Stoddart Street as the proposal generally presents as a two-storey dwelling with comparable setbacks, bulk and scale and height. The front façade has been designed to be with the visual appearance of the residential developments along Stoddart Street. The design, use of colours and materials are suitable and do not visually dominate the streetscape.											
F2.6 Car Parking													
C1	Refer to Part B1 – Transport and Parking of this DCP for parking provision rates for child care centres.	Required 4 staff parking spaces and 3 drop off/pick up spaces i.e. a total of 8 parking spaces provided.	✓										
C2	All car parking is to be behind the front building line.	Located in a basement behind the front building line.	✓										
C3	All parking and manoeuvring areas are to be suitably signposted, drained and line marked.	All basement parking spaces are marked on the plans with notation allocating the location of the accessible, drop off/pick up and staff spaces. In addition, the submitted swept paths demonstrate that there is sufficient manoeuvring for vehicles parking in the basement, and that vehicles can enter and exit the site in a forward direction.	✓										
C4	Suitably signposted parking is to be provided on the street immediately in front of the centre, and on the same side of the street as the centre, for the dropping off and picking up of children. This may require the identification and signposting of 10 minute time restricted parking for 2 hours during peak periods (7.00-9.00am and 4.00-6.00pm).	Council's Traffic Officer has provided conditions of consent for a 'P10 time parking' to be installed along the frontage of the property on Stoddart Street.	✓										
C5	The number of drop off/pick up spaces is to be in accordance with the following table: <table><tr><td>No. of Children</td><td>Pick-Up / Drop – Off</td></tr><tr><td>1-16</td><td>1</td></tr><tr><td>17-30</td><td>2</td></tr><tr><td>31-40</td><td>3</td></tr></table>	No. of Children	Pick-Up / Drop – Off	1-16	1	17-30	2	31-40	3	3 drop off/pick up spaces required as proposal involves up to 40 children. Provided 3 drop off/pick up spaces in the basement parking.	✓		
No. of Children	Pick-Up / Drop – Off												
1-16	1												
17-30	2												
31-40	3												
F2.7 Facilities and Layout													
C1	Provide space and facilities, and	This discussion is provided in the	✓										



<b>Table 8: F2 Child Care Centres - Canterbury Development Control Plan 2012</b>					
<b>Clause</b>	<b>Objective</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
	design the internal and external layout, in accordance with the National Quality Framework and any associated requirements of the licensing authority.	NSW Child Care Guideline Education and Care Services National Regulations assessment above.			
<b>F2.8 Open Space</b>					
C1	Provide external open space that promotes a variety of learning, play and other developmental experiences.	The proposal includes landscape treatments and structures in the covered and uncovered outdoor play areas to stimulate learning and experience opportunities. This is achieved through the use of the cubby house, sand pit, mud kitchen, chalkboard and sensory panels, climbing grips, slide and herb gardens.	✓		
C2	Design and construct external open space that is safe, healthy and attractive, provide visual quality to the development, and screen activities to protect neighbour's amenity.	The outdoor play areas are safe as is treated with soft surfaces and involve minimal tripping hazards i.e. excessive staircases and climbable structures. In addition, the uncovered outdoor play are screened by the existing trees lining the rear boundaries and the acoustic barriers along the perimeter of the area. It is considered that there is sufficient separation and protection from the play areas to the boundaries adjoining the neighbouring properties.	✓		
C3	Provide a landscape proposal, prepared by a qualified landscape architect or persons with expertise in landscape design for children, that complies with the National Quality Framework for children's centres.	Landscape plan prepared by qualified landscape consultant and complies with the National Quality Framework for children's centres.	✓		
C4	Where practical take advantage of existing site conditions, identifying both desirable and undesirable elements, and emphasise the natural rather than man-made environment.	The uncovered outdoor area benefits from the existing trees lining the rear boundary, and is predominantly on the flattest part of the site. It is considered that the play area has been designed in accordance with the natural environment of the site.	✓		
C5	Ensure that the external areas are free from contamination (including lead contamination).	The Detailed Site Investigation concludes that the site does not have any evidence of contamination. In addition, the proposed use of the outdoor play areas do not involve or require	✓		



<b>Table 8: F2 Child Care Centres - Canterbury Development Control Plan 2012</b>					
<b>Clause</b>	<b>Objective</b>	<b>Proposed</b>	<b>Y</b>	<b>N</b>	<b>NA</b>
		the use of any contaminants.			
C6	The outdoor play space must not be occupied by any motor vehicles during operating hours.	The proposed rear outdoor play areas cannot be occupied by vehicles.	✓		
C7	Outdoor play areas between the front alignment of the building and the street will not be supported.	There are no outdoor play areas proposed within the front setback. All outdoor play areas are located to the rear of the site.	✓		
<b>F2.9 Landscape Plan Requirements</b>					
C1	<p>A landscape plan is required for development of a new child care centre and may be required for alterations and additions to an existing child care centre. Include the following in the landscape plan:</p> <ul style="list-style-type: none"> <li>a. Boundary security fencing minimum 1.8m high and that is non-climbable;</li> <li>b. Covered veranda and 50% of external ground area shaded;</li> <li>c. Disability access and ease of access from outdoor areas to toilets;</li> <li>d. An outdoor area for babies, separate from outdoor area for older children;</li> <li>e. Conceptual delineation of spaces into activity zones;</li> <li>f. Sandpit and shade structure, and access to sandpit for maintenance vehicles;</li> <li>g. Outdoor storage areas, shed, waste storage and handling facilities;</li> <li>h. Garden bed layout with planting details, surface materials, and soft fall areas; and</li> <li>i. Water play areas and a tap.</li> </ul> <p>Note: Refer to Part B of this DCP for recommended Child Care Centre Planting Guide.</p>	<ul style="list-style-type: none"> <li>a. Maximum 1.8m height fencing that is non-climbable</li> <li>b. The uncovered outdoor play area is natural shaded by the existing trees lining the rear boundaries. At least 50% of the play area receives shading in the morning and afternoon.</li> <li>c. Bathroom is accessible on ground floor via ramps.</li> <li>d. Separated play areas with clear fences.</li> <li>e. The covered veranda and outdoor play areas achieve different floor levels, in which the uncovered play area utilises the existing slope and environmental topography of the site.</li> <li>f. Sand pit proposed in uncovered outdoor play area with shade structures provided.</li> <li>g. Cubby house proposed, and soft fall materials used for flooring.</li> <li>h. Artificial turf, soft fall walkway and herb garden proposed.</li> <li>i. Tap proposed in mud kitchen area.</li> </ul>	✓		
<b>F2.10 Staffing</b>					
C1	Staff ratios are to be in accordance with the National Quality Framework, details of staffing are to be included with the development application, including staff that will meet the needs of children with special needs and children from a culturally and linguistically diverse background.	<p>Age 0 – 24 months 8 Children / 4 = 2 Staff required.</p> <p>Age 24 – 36 months 10 Children / 5 = 2 Staff required.</p> <p>Age 36 months – preschool 22 Children / 11 = 2 Staff required.</p> <p>Total 6 Staff required. Proposed 7 Staff.</p>	✓		

Table 8: F2 Child Care Centres - Canterbury Development Control Plan 2012					
Clause	Objective	Proposed	Y	N	NA
F2.11 Accessibility					
C1	The building must provide for access for people with a disability, by a continuous path of travel from the street and or parking area into and within every room and outdoor area used by children and staff. Access should be designed in accordance with AS 1428.1 Design for Access and Mobility, and in all respects comply with Part D of the Building Code of Australia.	The proposal provides accessible ramps across the internal and external areas that have direct access to play areas, facilities and rooms. In addition, an accessible parking spot is provided in the basement parking, which has direct access to the lift.	✓		
F2.12 Operating Hours					
C1	Where a child care centre is located in a residential zone, operating hours will be restricted to: Monday – Friday 7.00am – 7.00pm (excluding public holidays).	The child care centre will operate from 7:00am to 6:00pm Monday to Fridays.	✓		
F2.13 Visual and Acoustic Privacy					
C1	Locate sleep rooms and play areas away from undesirable noise sources. The impacts of noise can be further reduced by barriers such as solid fencing and double-glazing.	Cot room located on ground floor.	✓		
C2	An acoustic report from a suitably qualified acoustic engineer is to be provided with a development application for a new child care centre and is to include measures to minimise noise impacts on neighbouring properties: a. Orientating the child care centre to have regard to neighbouring property layout, including locating playgrounds and playroom windows and doorways away from neighbouring bedrooms; b. Using double-glazing where necessary; c. Planting hedges along fence lines to create a playground buffer zone; and d. Include fencing that minimises noise transmission and loss of privacy (such as lapped and capped timber fencing, cement block, brick).	The submitted Acoustic report, prepared by a suitably qualified acoustic engineer, details measures and recommendations to be considered in the design and operation of the proposal. Acoustic barriers are provided in noise sensitive areas in the outdoor play areas. The Plan of Management adopts staggered and limited play times for outdoor areas to minimise noise impacts to adjacent residential properties. In addition, the retainment of the trees lining the rear boundaries provide natural noise barrier and separation from the play space to the adjoining residential properties. In addition, centre-wide policies regarding excessive noise are adopted in the Plan of Management to control excessive noise from staff and visitors. In the circumstance of excessive noise, there are procedures for	✓		

**Table 8: F2 Child Care Centres - Canterbury Development Control Plan 2012**

Clause	Objective	Proposed	Y	N	NA
		reporting and maintaining excessive noise levels.			

**Table 9: F8 Non-residential Development in Residential Zones - Canterbury Development Control Plan 2012**

Clause	Objective	Proposed	Y	N	NA
F8.2 General Controls					
C1	Non-residential development in a residential zone will be assessed for its impact on residential amenity.	The acoustic and traffic impacts, visual privacy, built form and appearance, compatibility, and safety have been considered in the assessment of this application. It is considered that the proposal does not result in unreasonable impacts to the adjoining residential properties and will not have detrimental impacts to the amenity of the surrounding residential land uses.	✓		
C2	Non-residential development in a residential zone will only be acceptable where adverse impacts on the amenity of residences in the immediate area (for example through traffic generation, parking demand, noise or any other form of pollution that is incompatible with residential uses) are avoided or minimised.	The traffic impact report has been referred and found to be supportable by Council's Traffic Management Officer and Council's Environmental Health Officer, subject to conditions of consent regarding traffic, noise impacts and pollution. The minimum on-site parking requirements have been met, per the parking calculations in Part B – General Controls.	✓		
C3	Council may impose conditions of consent to minimise any impact on residential amenity including limiting the scale of the development, restricting hours of operation or the like.	Conditions will be included in the consent which are, but not limited to, restricting additional storage in the basement car parking, implementing additional acoustic measures that have not identified or incorrectly installed, installation of a 'P10 time parking' along the front of the site, restricting the capacity to a maximum of 40 children and 7 staff at any one time.	✓		
C4	Building design needs to be compatible with surrounding area.	The built form, bulk and scale, height and setbacks are comparable to the residential developments in the immediate locality. The front façade incorporates suitable design elements, materials and colours that do not dominate the streetscape. As such, it is considered that the proposed development is compatible with the residential developments along Stoddart Street.	✓		

Table 9: F8 Non-residential Development in Residential Zones - Canterbury Development Control Plan 2012					
Clause	Objective	Proposed	Y	N	NA
C5	The non-residential component of buildings that adjoin residential zones should comply with the Building Height Plane.	The proposed development does not comply with the Building Height Plane. Further discussions are provided below.		✓	

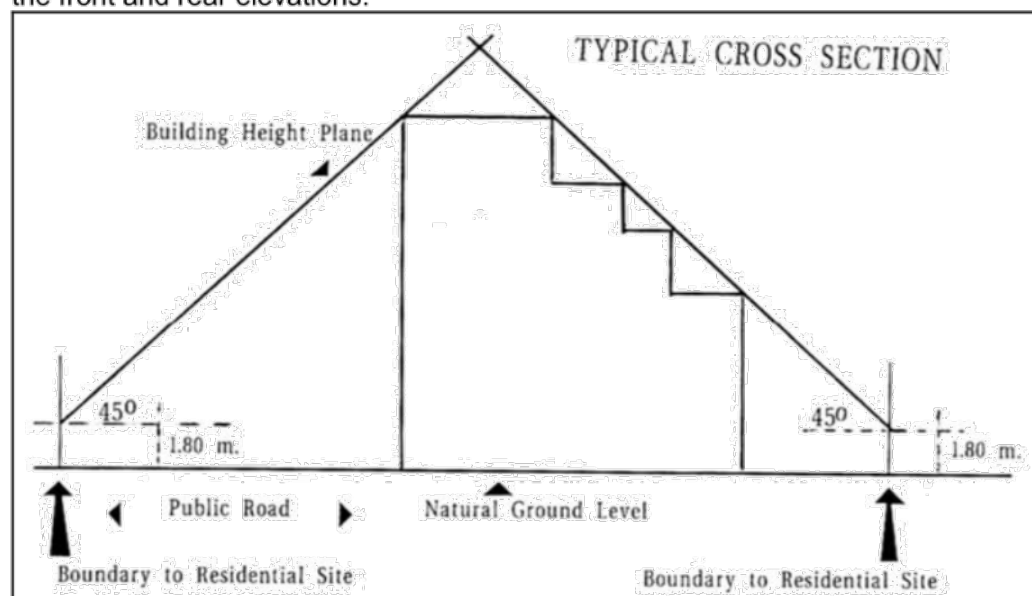
#### Building Height Plane

The objective of Chapter F8 reads as follows:

- O1 To reduce unreasonable amenity impacts on surrounding residents caused by non-residential uses.*

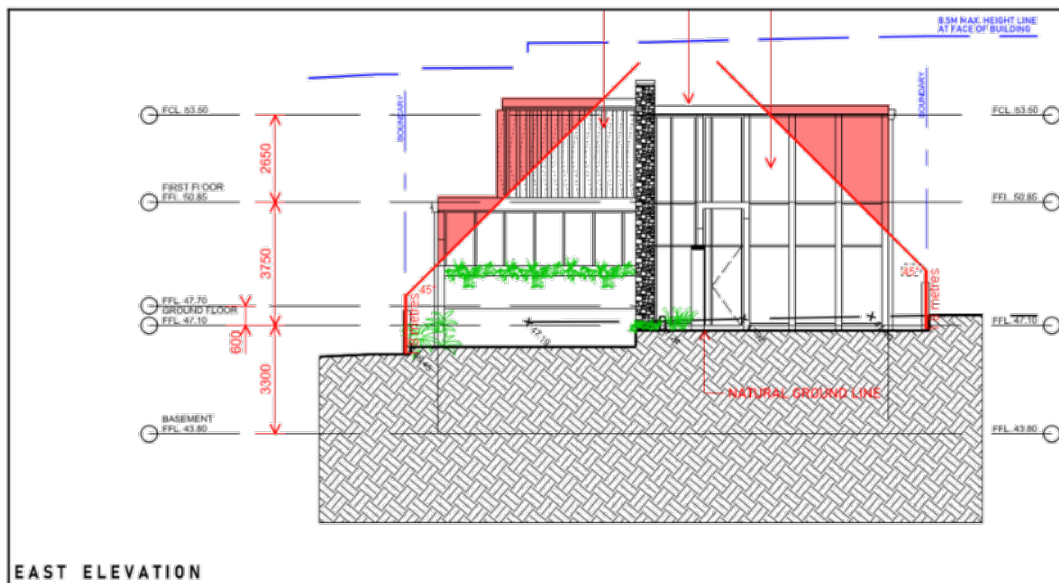
In addition, illustrated below is Figure F8.1: Building Height Plane of Chapter F8.

Also provided below are images showing an overlay of the building height plane on the front and rear elevations.

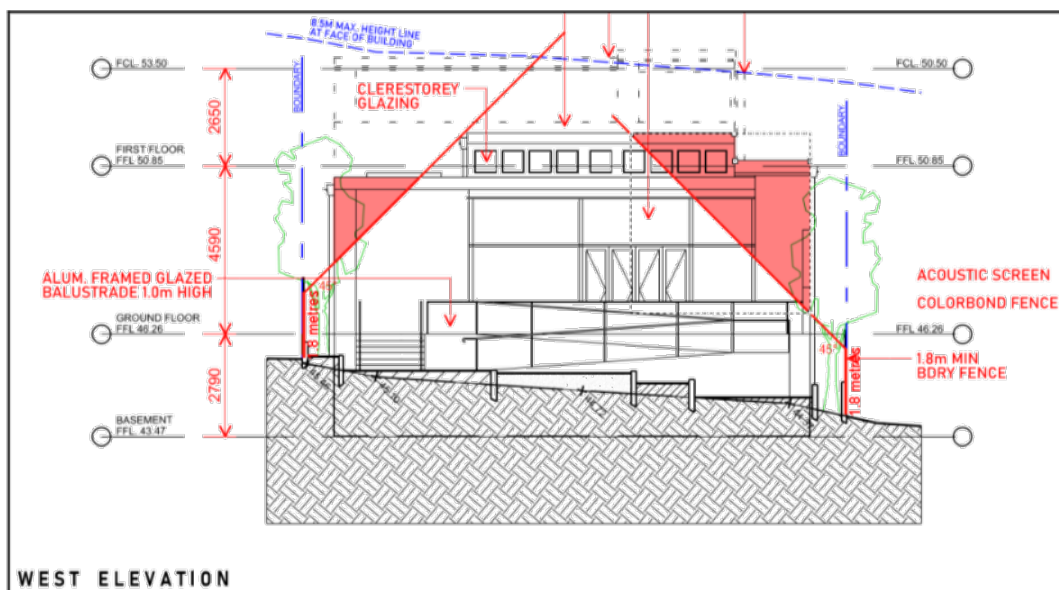


**Figure F8.1:** Building Height Plane of Chapter F8.





**Figure 2: Building Height Plane (East Elevation)** Source: Architectural Plans Revision D



**Figure 3: Building Height Plane (West Elevation)** Source: Architectural Plans Revision D

As seen in the figures above, the non-compliance associated with the height plane are shown in the highlighted red section. Despite this encroachment, the design does not result in significant amenity impacts to the surrounding residential developments.

In assessment of the shadow diagrams, the proposed development does not overshadow the internal habitable areas or private open spaces of the north western and south western adjoining properties. In addition, the adjoining property, to the southeast, achieves four consecutive hours of solar access between 8am and 12pm,



to the internal habitable areas via north and east facing windows, and five consecutive hours of sunlight between 10am and 3pm to the private open space. In this regard, the non-compliance does not result in unreasonable overshadowing impacts to the surrounding residential developments.

Furthermore, the Applicant has deleted the first floor outdoor play area to minimise noise impacts to the adjoining residential properties. In addition, the first floor windows achieve sufficient screening through the use of privacy louvres, achieve adequate sill heights that are 1.5m above the finished floor level, or designed to not directly overlook into the windows of the adjoining properties. As such, it is considered that the proposed development would not result in any unreasonable noise and visual privacy impacts.

Despite the non-compliance with the building height plane control, the proposed setbacks, roof style and front façade results in a built form which reads and presents similar to two-storey developments along Stoddart Street. In this regard, the proposed development is not considered to result in any unreasonable streetscape impacts.

Strict compliance with the building height plane control would require a building design that results in both increased side setbacks and an elongated and narrow building. In particular, a compliant first floor design would only be a maximum 5m wide. It is considered that a compliant design would not be compatible with the visual streetscape of Stoddart Street.

Given the points noted above, the proposed height plane encroachment is considered to be acceptable in this instance. It would not create any adverse or unreasonable amenity impacts to the neighbouring residential properties and is therefore consistent with the objective of the control.

**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 not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, the non-compliance with the development control in the Canterbury Development Control Plan 2012 is sufficiently justified. As such, it is considered that the impact of the proposed development on the surrounding locality is acceptable.

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

The application was neighbour notified and advertised for a period of twenty-one (21) days between 15 March 2023 and 4 April 2023 and renotified and readvertised following the submission of amended plans again for a further period of twenty-one (21) days between 6 September 2023 and 26 September 2023. A total of ten (10)

submissions 29 properties have been received. The submissions raised issues in relation to traffic impact and safety, visual and acoustic privacy, permissibility, overdevelopment, waste management, tree removal, overshadowing, accessibility and stormwater management.

### **Traffic Impact and Safety**

- *This development is not needed and will cause a traffic problem all day in the street.*
- *There is already a child care that was approved in our street, which is going to increase the traffic and if this one is approved, the traffic will get even worse.*
- *The traffic movements and general activity will turn our street into a school zone with over 100 children attending these 2 properties early in the morning and afternoon.*
- *The traffic report does not consider car flow of the approved child care centre being built at 73 Stoddart Street, the new townhouse development being built at 90-94 Stoddart street and existing dual occupancies being built along the street.*
- *The proposed will have unacceptable traffic implications for the street turning into something similar to a main road.*
- *Being 100m away from another approved child care centre, Stoddart Street will turn into a school zone and the safety of all including children will be compromised.*
- *The development will add to additional traffic and congestion/impact to Moorefields Road and Canarys Road both each ends of street which are both already congested with traffic.*

Comment: The submitted Traffic Impact Statement takes into consideration the existing traffic conditions of Canarys Road (north of site), the Canarys Road/Stoddart Street and Stoddart Street/Berring Avenue roundabouts, and key traffic signal intersections along King Georges Road. In particular, the report notes that the existing peak periods occurs between 7.30am and 8.30am in the mornings and between 4.00pm and 5.00pm in the afternoons, with the predominant traffic flow heading southbound towards the site. As such, the main traffic implications of the proposed development relates to the generated impacts on the Canarys Road/Stoddart Street roundabout.

Through careful consideration of traffic generation predictions/rates and the use of a traffic model, it is revealed that the additional traffic flow in the peak periods will have minimal impact and delays to the roundabout at Canarys Road and Stoddart Street i.e. the proposed development results in additional 15% increase to the flow of traffic along Stoddart Street during the peak periods. In addition, it is noted that the traffic generated by the proposed development would not exceed the expected capacity of Stoddart Street and will have minimal impacts on the traffic flow. In this regard, it is considered that the proposed development will not have detrimental impacts to the existing and emerging land uses along Stoddart Street.

Furthermore, the proposal complies with the minimum parking rate requirements as prescribed in Part B5 Parking of the Canterbury Development Control Plan 2012 i.e. providing a total of 8 on-site parking spaces (5 staff spaces and 3 drop off/pick up

spaces). It is noted that an additional staff parking space has been provided above the minimum requirements.

In addition, the development application and accompanying Traffic Report has been assessed and found to be supportable by Council's Traffic Management Officer, subject to conditions relating to drop off/pick up, pedestrian sight lines, pedestrian and vehicle access. In particular, a condition of consent has been provided that requires the installation of a 'P10 time parking' along Stoddart Street forward of the property.

### **Parking**

- *The proposed basement parking includes a stacker car park from which is not allowable in this proposed development.*
- *The parking is very bad in our street especially due to the cafe up the road where people park in our street to go there.*
- *The property seems too narrow to have cars onsite for staff and parents to enter and exit from. And when someone park car outside, we would not be able to go out freely.*
- *It is also noted that some of the staff will park in drop-off zones off peak hours.*
- *We already have neighbours complaining that customers from a cafe 150m away parking in their driveways on footpaths double parking. The proposed development will create even worse parking conditions during peak hours and may cause many traffic or pedestrian accidents.*
- *Most of the homes have single garages and residents are already finding it difficult to find parking on the street. Despite providing on-site parking space, it is likely that people visiting the child care centre would be competing with residents in searching for street parking.*
- *There is a mechanical stacked parking proposal in the underground basement which creates serious safety issues. We understand that this is not permissible under the existing and proposed combined DCP*

Comment: The applicant has removed the proposed car stacker from the basement and proposes 3 on-site pickup and drop-off spaces for parents and 5 on-site parking spaces for staff. It is noted that the parking arrangements have been assessed and found to be compliant with the staff parking requirements of the Canterbury Development Control Plan 2012. A condition is recommended to be included in the development consent requiring a P10 parking sign to be installed across the frontage of the subject site. It is advised that there is no approval for any on-street parking for staff.

As such, it is considered that the proposed development would not impact the available on-street parking arrangements as there is sufficient on-site parking provided for staff and parents/visitors and at least one on-street timed parking space along the frontage.

### **Visual Privacy**

- *The height of the proposed plan might have a breach of privacy in which both sides can see each other.*



- *The plans show a second level balcony opening up to the rear and sides, directly affecting side and rear neighbours who have living areas and bedrooms on the same side.*

Comment: The first floor covered outdoor play balcony has been deleted from the plans, and the ground floor play areas do not overlook into the living areas and private open spaces of the adjoining side and rear properties.

An assessment of the proposed development has found to be compliant with the visual privacy provisions of the Child Care Planning Guideline, and the applicable controls contained in the Canterbury Development Control Plan 2012.

### **Acoustic Privacy**

- *Our father has a chronic depression. It is vital to keep the noise to a minimum.*
- *One of our family members has medical condition and excessive noise can worsen the condition.*
- *Many surrounding neighbours work from home, work shift work and have medical issues. Noise levels from the proposed child care will impact their way of life and can affect their health. Noise limiting barriers will not be sufficient in this case (noise can travel over barriers) as you will have the additional traffic noise during parents/children pick-up drop-offs.*
- *The proposed side setback is too close for a child care centre and there would be potential noise pollution.*
- *A lot of the residents work from home including our household, and at present everyone is enjoying the quiet atmosphere. It would not be conducive to providing a good working environment since the work involves liaising with clients and colleagues based in law firms and businesses.*
- *We do not need further noise pollution in an already built up area.*
- *The proposed development will cause a devaluation of our property due to increased noise pollution.*

Comment: The proposed development has been designed with sufficient acoustic screening along the ground floor covered outdoor area and the rear outdoor play area per the recommendations of the Acoustic Report. In addition, the Applicant has deleted the first floor outdoor play area, reduced the proposed number of children in care, and provided a minimum of 1m side setbacks, which has reduced the overall potential noise impacts of the proposed development.

Furthermore, the development application and accompanying acoustic report has been referred and found to be supportable by Council's Environmental Health Officer, subject to conditions of consent including compliance with the recommendations of the Acoustic Report and further implementation of additional acoustic measures, that have not identified or incorrectly installed during the operation of the proposed development.

### **Permissibility**

- *The current application before council for 60 Children appears not to comply with the most basic requirements in relation to distance from an existing child care center i.e. 400 metres walking distance.*

- *The proposed 60 place children 2-storey children child care and basement are similar to the approved child care centre at 73 Stoddart Street, which was approved at 42 children and single level and basement.*
- *There are also provisions for a max number of 40 children per child care within a residential zone.*
- *The Canterbury DCP does not allow new child care centres within 400m of an approved/existing child care centre in this case it is only 100m away.*

Comment: In accordance with provision 3.26(2)(a) in Chapter 3.3 Early education and care facilities—specific development controls of the State Environmental Planning Policy (Transport and Infrastructure) 2021, the development may be located at any distance from an existing or proposed early education and care facility. As such, Council cannot apply F.23 Location and Demand Analysis in Chapter F of the Canterbury Development Control Plan 2012 regarding the proximity of the proposed development with the approved development at No. 73 Stoddart Street.

It is noted that provision 3.26 of the SEPP (Transport and Infrastructure) 2021 supersedes the development controls contained within the Canterbury Development Control Plan 2012, in particular with development controls relating to location, indoor and outdoor space, site area and site dimensions, and colour of building materials or shade structures.

Notwithstanding the above, the Applicant has reduced the proposed number of children in care to 40 children. It is noted that the first floor play area has been deleted, and that the number of staff, size of the basement and first floor have been reduced accordingly.

#### **Overdevelopment**

- *There is another child care centre which is under development on the same street just fifty to hundred metres from the proposed construction. The neighbourhood consists of older couples and adult children so there is no advantage in opening another child care centre in the same area.*
- *There is an overdevelopment of child care centres in the area and surrounding areas, including Beverly Hills just over the other side of Moorefields Road, which adds to the traffic, parking and noise complaints.*
- *The dozen or so current child care centers in the area are only approximately 60% occupied. Our property valuations will be affected negatively.*
- *The proposed development will depreciate the value of my property.*



Comment: The proposed development has been amended by reducing the capacity to a maximum of 40 children, deleting the first floor play area, reducing the size of the indoor play areas accordingly, reducing the floorplate of the first floor, and reducing the overall gross floor area and floor space ratio. It is considered that the proposed development achieves a bulk and scale that does not detract from the residential streetscape of Stoddart Street.

The amended design has been assessed and found to be compliant with the objectives and provisions set out in the applicable environmental planning instruments and the objectives and development standards contained in the Canterbury Local Environmental Plan 2012, and is generally compliant with the applicable development controls of the Canterbury Development Control Plan 2012. In addition, the proposed development is not considered to create undue parking, traffic, acoustic, overshadowing or visual privacy impacts. As such, it is considered that the proposed development is not an overdevelopment of the subject site.

Furthermore, there is no evidence which would suggest that the proposed development will negatively impact the valuation of the immediate properties of the locality.

#### **Waste Management**

- *There are issues regarding bin collection due to lack of on-street parking.*

Comment: The proposed development and accompanying Waste Management Plan has been referred and found to be supportable by Council's Resource Recovery Management Officer, subject to conditions of consent regarding bin carting route and bin storage rooms. It is considered that the proposed bin storage areas and bin collection procedures are acceptable and that the proposed development complies with Council's Waste Management Guide for New Developments.

#### **Tree Removal**

- *The existing trees on the property provide a natural habitat for birds and animals and the removal of an old tree on the property will be detrimental to the environment.*

Comment: The development application and accompanying arborist report was referred and found to be supportable by Council's Tree Management Officer, subject to conditions of consent regarding tree removal of the on-site tree and tree protection of the street tree. In addition, the landscape plan provides sufficient landscaping within the front boundary and across the site, and also retains the existing trees lining the rear boundaries.

#### **Overshadowing**

- *The height of the building also gives us a lack of sunlight in the bedroom.*
- *The proposed side setback and two-storey development will result in insufficient sunlight to the adjoining developments. This has a financial impact as lights will be turned on during day time.*

Comment: The applicant has submitted amended shadow diagrams which demonstrates that there are would be compliant solar access to the internal habitable areas and the private open spaces of the adjoining properties.

#### **Accessibility**

- *The steps inside the proposed centre are unsafe and do not provide for disabled access.*
- *The subject site slopes to the rear, and in the case of an emergency, the many steps and steep climb could be a hazard for small children and evacuating the site safely and quickly.*

Comment: The proposed development includes accessibility ramps and elevators to allow for safe and easy connections between all parking areas, indoor and outdoor play areas and main building entries. In addition, the applicant has submitted an emergency and evacuation plan demonstrating routes and procedures in the event of emergencies. It is recommended that a condition be placed on the development consent requiring final certification of the evacuation plan by a suitably qualified person prior to the issue of a Construction Certificate, and that the evacuation plan must meet the requirements of the Child Care Planning Guideline, all applicable Australian Standards, the National Construction Code, and any other relevant requirement or standard.

#### **Stormwater Management**

- *Stormwater and sewer drainage issues as subject site slopes to the rear.*

Comment: The proposed stormwater design includes an on-site detention incorporated to the rear of the building, which has direct connection to the stormwater pipe in the easement at the rear of No. 59 Stoddart Street. It is advised that the applicant has received consent from the land owner to connect to this easement and has submitted relevant easement plans. It is considered that the stormwater design system is compliant with the relevant development engineering standards in Chapter B of the Canterbury Development Control Plan 2012.

In addition, the development application and amended stormwater management plans were referred and found to be by Council's Development Engineer, subject to conditions of consent, but not limited to, maintaining the natural flow of stormwater, stormwater drainage works and construction, maintenance of the stormwater system and on-site detention

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

The proposed development would not contravene the public interest. The proposed development has been amended to be in accordance with the objectives and provisions set out in the applicable environmental planning instruments and the objectives and development standards contained in the Canterbury Local Environmental Plan 2012, and generally complies with the development controls contained in the Canterbury Development Control Plan 2012. Matters raised in the public submissions have been satisfactorily addressed, and there would be no unreasonable impacts on the immediate locality and the surrounding context of Stoddart Street.

## **CONCLUSION**

DA-135/2023 has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, and against the provisions contained in the applicable environmental planning instruments, development control plans, and policies.

The proposed development would result in an appropriate built form for the site that will be consistent and will not detract from the existing streetscape of Stoddart Street. The applicable development standards and controls have been adequately addressed and all submissions have been taken into careful consideration.



**GENERAL CONDITIONS**

Condition

1.

Approved Plans and supporting documentation

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
DA 2.00	Site Plan	13/03/2024	D	CMT ARCHITECTS
DA 3.00	Basement Plan	05/09/2023	E	CMT ARCHITECTS
DA 4.00	Ground Floor Plan	31/01/2024	D	CMT ARCHITECTS
DA 5.00	First Floor Plan	13/03/2024	D	CMT ARCHITECTS
DA 7.00	South Elevation	13/03/2024	D	CMT ARCHITECTS
DA 7.01	North Elevation	01/08/2023	C	CMT ARCHITECTS
DA 7.02	East Elevation	01/08/2023	C	CMT ARCHITECTS
DA 7.03	West Elevation	01/08/2023	C	CMT ARCHITECTS
DA 9.00	Section A.A.	13/03/2024	D	CMT ARCHITECTS
DA 9.01	Section B.B.	01/08/2023	C	CMT ARCHITECTS
DA 16.00	Demolition Management Plan	03/08/2023	A	CMT ARCHITECTS
DA 18.00	Outdoor Storage Areas	31/01/2024	B	CMT ARCHITECTS

1.101.S

Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.

2.

Design amendments

Before the issue of a construction certificate, the certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents:

a.

A 'P10 time parking' shall be installed along the frontage of the property on Stoddart Street (with appropriate operation hours of the centre) to facilitate Pick-up/Drop-off of children. Council shall be contacted three months prior to the operation of the centre for the installation of signage.

1.102.S

Condition reason: To ensure the orderly development of land.

3.

Comply with Development Consent

The proposal shall comply with the conditions of this Development Consent.

1.105

Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.



4.	<p><b>Additional Signage Requires a Separate Application</b></p> <p>A separate application shall be submitted to Council before the erection of any additional signage A separate application shall be submitted to Council before the erection of any additional signage unless the proposed signage is "exempt development" in accordance with the relevant legislation.</p> <p style="text-align: right;">1.201</p> <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p>
5.	<p><b>Detailed Site Investigation</b></p> <p>The Detailed Site Investigation prepared by Foundation Earth Sciences 2023, titled "Detailed Site Investigation (DSI), Property Address 57 Stoddart Street, Roselands NSW", Job Number E2930-2, dated June 2023, including all the recommendations stated within the report forms part of the development consent. In particular:</p> <ul style="list-style-type: none"> <li>Any soil requiring removal from site, as part of future siteworks, should be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW EPA (2014).</li> <li>Any unexpected finds protocol should be followed during the evacuation phase of the development.</li> </ul> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
6.	<p><b>Acoustic Report</b></p> <p>The acoustic report submitted in support of this application prepared by Koikas Acoustic Pty Ltd, titled, "Acoustical report Proposed Childcare Centre 57 Stoddart Street, Roselands NSW", File reference 5760R20230523as57StoddartStRoselands_DA, dated 20 June 2023 and all the recommendations stated within the report, form part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the acoustic report.</p> <p>The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate.</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
7.	<p><b>Plan of Management</b></p> <p>The plan of management submitted in support of this application prepared by Tudor Planning and Design Pty Ltd, Dated June 2023, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
8.	<p><b>Maximum Number of Children</b></p> <p>The child care centre is restricted to a maximum of 40 children at any one time, as detailed:</p> <ul style="list-style-type: none"> <li>0-2 years: 8 Children</li> </ul>

	<ul style="list-style-type: none"> <li>• 2-3 years: 10 Children</li> <li>• 3-5 years: 22 Children</li> </ul>
	Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
<b>9.</b>	<b>Maximum Number of Staff</b>
	The child care centre is restricted to a maximum of 7 staff at any one time.
<b>10.</b>	<b>Final Evacuation Plan</b>
	Final certification of the evacuation plan, in DA 4.00 and DA 5.00, Issue C, dated 13 December 2023, prepared by CMT Architects, must be reviewed by a suitably qualified person shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The final certification shall confirm that the evacuation plan meets the requirements of the Child Care Planning Guideline, all applicable Australian Standards, the National Construction Code, and any other relevant requirement or standard.
	Condition reason: To ensure the development is built and remains consistent with approved plans and documentation and complies with the relevant New South Wales legislation.

#### BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
<b>11.</b>	<p><b>Development Contributions, Section 7.12</b></p> <p><u>Development Contributions of \$33,100.00 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><b>NOTE:</b> <u>Development contribution amounts are non-refundable if you don't proceed with your development.</u></p>

2.102

	Condition reason: To ensure compliance with the relevant New South Wales legislation.
<b>12. Payment of Fees</b>	<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> <ul style="list-style-type: none"> <li>a. levies</li> <li>b. bonds</li> <li>c. contributions</li> <li>d. inspection fees</li> </ul> <p style="text-align: right;">2.103.S</p>
	Condition reason: To ensure compliance with the relevant New South Wales legislation.
<b>13. Long Service Levy</b>	<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 <a href="https://longservice.force.com/bci/s/levy-calculator">Calculator at https://longservice.force.com/bci/s/levy-calculator</a>. Payment must be made via the <a href="https://www.longservice.nsw.gov.au">Long Service Levy Portal</a> at <a href="https://www.longservice.nsw.gov.au">https://www.longservice.nsw.gov.au</a>.</p> <p style="text-align: right;">2.104</p>
	Condition reason: To ensure compliance with the relevant New South Wales legislation.
<b>14. Submit Plans to Sydney Water</b>	<p>The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.</p> <p>Refer to <a href="http://www.sydneywater.com.au/tapin">www.sydneywater.com.au/tapin</a> for Sydney Water's Guidelines for building over or next to assets, visit <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> 'Plumbing, building &amp; developing' then 'Building Plan Approvals' or call 13000 TAPIN™.</p> <p>Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.</p> <p style="text-align: right;">2.202.S</p>
	Condition Reason To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.
<b>15. Fire Safety Provisions</b>	<p>The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.</p> <p><b>Note:</b> The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to this Determination Notice.</p> <p style="text-align: right;">2.204</p>



	Condition reason: To ensure compliance with the relevant New South Wales legislation.
<b>16. Mobility Access</b>	<p>The building must be designed and constructed to provide access and facilities for people with a physical disability in accordance with the Building Code of Australia.</p> <p>If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council through a modification application before a construction certificate being issued.</p> <p style="text-align: right;">2.208</p>
	Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
<b>17. Accessible Walkways</b>	<p>Construction certificate plans must demonstrate that all on-site pedestrian pathways and footpaths open to the public comply with AS/NZS 4586 (including amendments) – ‘Slip resistance classification of new pedestrian surface materials’.</p> <p style="text-align: right;">2.209</p>
	Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
<b>18. Erosion and Sediment Control Plan</b>	<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> <ol style="list-style-type: none"> <li>Council’s development control plan,</li> <li>the guidelines set out in the NSW Department of Housing manual ‘Managing Urban Stormwater: Soils and Construction Certificate’ (the Blue Book), and</li> <li>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).</li> </ol> <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.
<b>19. Dilapidation report</b>	<p>Before the issue of a construction certificate, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the certifier for the following properties:</p> <ul style="list-style-type: none"> <li>55B Stoddart Street, Roselands</li> <li>59 Stoddart Street, Roselands</li> </ul>

	<p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the certifier, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>No less than 14 days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be made available to Council upon request.</p> <p style="text-align: right;">2.212.P</p>
	<p>Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and</p>
<b>20.</b>	<p><b>Mechanical Ventilation</b></p> <p>The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and 2 – ‘The Use of Ventilation and Air- Conditioning in Buildings - Mechanical Ventilation in Buildings’.</p> <p>Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and 2 – ‘The Use of Ventilation and Air- Conditioning in Buildings - Mechanical Ventilation in Buildings’, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person and certified in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, to the satisfaction of the certifier before the issue of a construction certificate.</p> <p style="text-align: right;">2.214</p>
	<p>Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.</p>
<b>21.</b>	<p><b>Retaining Walls</b></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> <p>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.</p> <p>All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment 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>



<b>22.</b>	<p><b>Apply for Work Permit for Engineering Works</b></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> <ol style="list-style-type: none"> <li>A single heavy Duty VFC of maximum width of 6.0metres at the property boundary for the driveway access to the basement car parking area.</li> <li>Drainage connection through an underground on site storm water detention system discharging through a 225mm diameter storm water pipe and connected to the existing council storm water pipe through a newly created drainage easement.</li> <li>Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,</li> <li>Repair of any damage to the public road including the footway occurring during building works, and</li> <li>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.</li> </ol> <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>
<b>23.</b>	<p><b>Basement Anchoring</b></p> <p>The basement of the development is located adjacent to a Council public road reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's public road.</p> <p style="text-align: right;">2.303</p> <p>Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.</p>
<b>24.</b>	<p><b>Works Requiring a Work Permit</b></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 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"> <li>a. Dig up, disturb, or clear the surface of a public footway or public road,</li> <li>b. Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,</li> <li>c. Connect a road (whether public or private) to a classified road,</li> <li>d. Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,</li> <li>e. Install utilities in, under or over a public road,</li> <li>f. Pump water into a public footway or public road from any land adjoining the public road,</li> <li>g. Erect a structure or carry out a work in, on or over a public road,</li> <li>h. Require a work zone on the public road for the unloading and or loading of vehicles,</li> <li>i. Pump concrete from within a public road,</li> <li>j. Stand a mobile crane within a public road,</li> <li>k. Store waste and recycling containers, skips, bins and/or building materials on any part of the public road,</li> <li>l. The work is greater than \$25,000, and</li> <li>m. Demolition is proposed.</li> </ul> <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 style="text-align: right;">2.304</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
<b>25.</b>	<p><b>Finished surface levels</b></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 style="text-align: right;">2.305</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
<b>26.</b>	<p><b>Stormwater Drainage</b></p> <p>Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by the an appropriately qualified person as defined in the Building and</p>

Development Certifiers Regulation 2020 that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.		
<b>Plan Number</b>	<b>Date</b>	<b>Prepared By</b>
Drg.no:23176-001 sheet nos: H000 to H003 & drg.no: 23176, sheet no: DA – 02 -601	Dated 30/10/2023 & 24/10/2023	Epi Centre Consulting Engineers
2.306		
Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.		
<b>27. Pump Out System</b>		
The pump out drainage system for the driveway/access ramp and car parking area/open space area shall be provided in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The engineer must design the Pump out drainage system to be in accordance with the Australian Standards AS 3500. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before issue of any construction certificate. The engineer must certify that the hydraulic design complies with the above relevant standards.		
2.308		
Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.		
<b>28. Pump Plans and Details</b>		
Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before the issue of any construction certificate.		
2.309		
Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.		
<b>29. On-site Stormwater Detention System</b>		
For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an on-site stormwater detention system, in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The developer shall engage a suitably qualified engineer to prepare a final stormwater drainage and on-site detention system plan to be generally in accordance with the concept plan in the table below and in accordance with the requirements contained in Council's Canterbury Development Control Plan 2012 Part B5. The Engineer shall certify that the design and plans comply with Council's Canterbury Development Control Plan 2012 Part B5 and the relevant Australian Standards.		
<b>Plan Number</b>	<b>Date</b>	<b>Prepared By</b>
Drg.no:23176-001 sheet nos: H000 to H003 & drg.no: 23176, sheet no: DA – 02 -601	Dated 30/10/2023 & 24/10/2023	EPI Centre Consulting Engineers
2.310		
Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.		



<b>30.</b>	<p><b>Driveway Design</b></p> <p>The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued.</p> <p>Furthermore, for internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.</p> <p style="text-align: right;">2.313</p> <p>Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.</p>
<b>31.</b>	<p><b>Sight Triangles on Plans</b></p> <p>Sight triangles are to be marked on relevant plans, being provided at the intersection of the driveway and the property boundary in accordance with AS 2890.1: Figure 3.3 – Minimum Sight Lines for Pedestrian Safety. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. Any structures, plantings or fencing within these triangles is to be a maximum height of 600mm to ensure sight lines are kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.</p> <p style="text-align: right;">2.406</p> <p>Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.</p>
<b>32.</b>	<p><b>Install work zone</b></p> <p>The consent holder shall apply to the Canterbury Bankstown Traffic Committee for the installation of a Works Zone at the site's frontage at least eight (8) weeks in advance of the commencement of construction through a written request sent to council@cbc.city.nsw.gov.au (Attention: Traffic and Transport Services). The consent holder is to cover all relevant fees and charges associated with the Works Zone. Approval of the Works Zone is to be provided by Council before the issue of any construction certificate.</p> <p style="text-align: right;">2.407</p> <p>Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.</p>
<b>33.</b>	<p><b>Return Bins to Council</b></p> <p>Before the commencement of any works, all domestic waste bins servicing the site are to be returned to Council.</p>

	2.501
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
<b>34. Waste Management Plan</b>	
	<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"> <li>a. in accordance with: <ul style="list-style-type: none"> <li>i. the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and</li> <li>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</li> </ul> </li> <li>b. include the following information— <ul style="list-style-type: none"> <li>i. the contact details of the person removing waste,</li> <li>ii. an estimate of the type and quantity of waste,</li> <li>iii. whether waste is expected to be reused, recycled or sent to landfill,</li> <li>iv. the address of the disposal location for waste.</li> </ul> </li> </ul> <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>
	2.502
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
<b>35. Plans to Include Bin Storage Area</b>	
	<p>The construction certificate plans shall include details of the waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building or screened from the street by dense landscaping.</p>
	2.503
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
<b>36. Bin Carting Route</b>	
	<p>The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate which identify that the bin carting route from the communal bin storage room to the waste collection point identified on stamped plans complies with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":</p> <ul style="list-style-type: none"> <li>a. Is direct and less than 15.0 metres in length,</li> <li>b. Is a flat and smooth surface of non-slip material and free from obstacles and steps;</li> <li>c. Is not located within a driveway or carpark;</li> <li>d. Has a maximum grade of 1:30 (3%);</li> <li>e. Has a kerbside ramp installed at the collection point; and</li> </ul>



	<p>f. Has compliance with Work, Health and Safety legislation and standards</p>	2.504									
	Condition reason: To ensure the orderly collection of waste from the site.										
37.	<p><b>Communal Bin Storage Room</b></p> <p>The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the communal bin storage room that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":</p> <ul style="list-style-type: none"><li>a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;</li><li>b. Floors must be finished so as to be non-slip with a smooth and even surface;</li><li>c. A designated room or enclosure and is to have a roof, with a minimum 2.1m unobstructed room height.</li><li>d. Must be compatible with the overall design of the development;</li><li>e. Walls must be constructed of solid impervious material;</li><li>f. Ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;</li><li>g. Walls, ceiling and floors must be finished in a light colour;</li><li>h. An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;</li><li>i. A self-closing door openable from within the room;</li><li>j. Must be constructed to prevent the entry of birds and vermin;</li><li>k. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;</li><li>l. Any doorways must 2 metres roller door; and</li><li>m. A minimum area of 9.7m<sup>2</sup> and Designed to fit the following bin allocations:</li></ul> <table><tr><th>Number</th><th>Bin Size</th><th>Bin Type</th></tr><tr><td>2</td><td>660L</td><td>Garbage (Red)</td></tr><tr><td>2</td><td>660L</td><td>Recycling (Yellow)</td></tr></table>	Number	Bin Size	Bin Type	2	660L	Garbage (Red)	2	660L	Recycling (Yellow)	2.505
Number	Bin Size	Bin Type									
2	660L	Garbage (Red)									
2	660L	Recycling (Yellow)									
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.										
38.	<p><b>Condition Name</b></p> <p>Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a Construction Certificate.</p>	3.601									
	Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies.										

39.	<p><b>Trade Waste Agreement</b></p> <p>A Trade Waste Agreement shall be obtained from Sydney Water before the discharge of trade wastewater to the sewer system. Wastewater treatment equipment is to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund. All wastewater treatment devices shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i>.</p> <p style="text-align: right;">2.612</p> <p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p>
40.	<p><b>Grease Trap</b></p> <p>Before the issue of a construction certificate, the certifier must ensure all relevant plans show the details of a grease trap, (where required by Sydney Water) to be installed in accordance with Sydney Water requirements and that the grease trap:</p> <ul style="list-style-type: none"> <li>a. Must be installed by a suitably qualified and licensed plumber in accordance with the Plumbing Code of Australia; and</li> <li>b. Must be not be in any kitchen, food preparation or food storage area; and</li> <li>c. Must be suitably constructed and installed in a location which allows it to be easily and effectively cleaned and emptied; and</li> <li>d. Must be suitably constructed and located as not to encourage the harbourage of pests and be effectively pest proofed.</li> </ul> <p style="text-align: right;">2.615</p> <p>Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.</p>
41.	<p><b>Arborist Report</b></p> <p>The applicant shall ensure full compliance with the all recommendations numbered in Section 6: Recommendations of the Arborist Report prepared by NSW Trees dated 31/1/2023, which was submitted to Council as part of this application.</p> <p style="text-align: right;">2.814</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
42.	<p><b>Tree Removal on Subject Site</b></p> <p>Approval is granted for the removal of the following trees:</p> <ul style="list-style-type: none"> <li>• Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;</li> <li>• Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;</li> <li>• Any tree species listed under clause 3.4 of <u>Canterbury Development Control Plan 2012 Part B3 – Tree Management Order</u>;</li> <li>• Any of the following tree/s: T1 (As per Arboricultural Impact Assessment, Date: 31/1/2023)</li> </ul>

	<p>All tree removal works must comply with the <u>Amenity Tree Industry – Code of Practice, 1998</u> (Workcover, NSW) and <u>Guide to Managing Risks of Tree Trimming and Removal Work</u> (Safe Work Australia 2016).</p> <p>All other vegetation not specifically identified above, and protected by Councils Tree Management Order, is to be retained and protected from construction damage and pruning. The Tree Management Order protects trees over 5m in height.</p> <p style="text-align: right;">2.818</p>						
	<p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p>						
43.	<p><b>Tree Retention and Protection</b></p> <p>The following street tree shall be retained and protected from removal and damage for the duration of the development:</p> <table><tr><th>Tree Species</th><th>Location</th><th>TPZ / SRZ</th></tr><tr><td>1 x <i>Lophostemon confertus</i> (Brush box)</td><td>Nature strip forward of the subject site along Stoddart Street</td><td>3.36m</td></tr></table> <p>Tree protection measures shall comply with Australian Standard AS 4970 – ‘Protection of trees on development sites’, together with the following conditions:</p> <ul style="list-style-type: none"><li>a. The area of Council’s nature strip – excluding the concrete footpath – shall be fenced off from access through the installation of tree protection fencing. The tree protection fencing is to be constructed of chain wire mesh 1.80 metres high, supported by steel posts and shall remain in place throughout the duration of site works; and</li><li>b. The consent holder will display in a prominent location on the fencing of each tree protection zone a durable, weather resistant sign of a similar design, layout and type size as per Appendix C, Australian Standard AS 4970 – ‘Protection of trees on development sites’ clearly showing:<ul style="list-style-type: none"><li>i. The Development Consent number; and</li><li>ii. The name and contact phone number of the consultant arborist / site manager (nominate whoever is applicable); and</li><li>iii. The purpose of the protection zone; and</li></ul></li><li>c. No vehicular access, excavations for construction or installation of services shall be carried out within the fenced off TPZ; and</li><li>d. All utility services, pipes, stormwater lines and pits shall be located outside the fenced off TPZ; and</li><li>e. Building materials, chemical storage, site sheds, wash out areas, waste material and similar shall not be located within the fenced off TPZ; and</li></ul> <p>Trees marked for retention must not to be damaged or used to display signage, or as fence or cable supports for any reason.</p> <p style="text-align: right;">2.814</p>	Tree Species	Location	TPZ / SRZ	1 x <i>Lophostemon confertus</i> (Brush box)	Nature strip forward of the subject site along Stoddart Street	3.36m
Tree Species	Location	TPZ / SRZ					
1 x <i>Lophostemon confertus</i> (Brush box)	Nature strip forward of the subject site along Stoddart Street	3.36m					
	<p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p>						
44.	<p><b>Tree Planting on Subject Site</b></p> <p>The applicant is to plant 3 x replacement tree/s on the site as follows:</p>						



	<ul style="list-style-type: none"> <li>• 3 x replacement tree/s known to attain a minimum height of 10 metres at maturity in the rear yard of Child Care Centre;</li> <li>• Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 3.4 of <u>Canterbury Development Control Plan 2012 Part B3 – Tree Management Order</u>.</li> <li>• The tree/s shall have a container size not less than 100 litres, shall comply with <u>NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)</u> or <u>Australian Standard AS 2303 – 2015 Tree stock for landscape use</u></li> <li>• The tree/s shall be planted no closer than 3.5 metres from the wall of any approved dwelling on the property.</li> <li>• The tree/s shall be planted so that future growth is not in conflict with overhead electricity wires.</li> <li>• The tree/s shall be maintained for the life of the development.</li> </ul> <p style="text-align: right;">2.820</p> <p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p>
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#### BEFORE BUILDING WORK COMMENCES

	Condition
<b>45.</b>	<p><b>Demolition conditions</b></p> <p>The demolition of all structures on the property must be undertaken in accordance with all the following:</p> <ol style="list-style-type: none"> <li>Written notice must be issued to adjoining residents a minimum of seven (7) days before the commencement of demolition advising of the commencement date,</li> <li>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,</li> <li>Inspections being undertaken by Council including:             <ol style="list-style-type: none"> <li>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</li> <li>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,</li> </ol> </li> <li>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,</li> <li>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,</li> <li>All demolition work must be carried out in accordance with Australian Standard 2601 – 'The Demolition of Structures',</li> <li>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,</li> </ol>

	<ul style="list-style-type: none"> <li>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,</li> <li>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,</li> <li>j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,</li> <li>k. Adhere to the requirements stipulated in the approved Waste Management Plan, and</li> <li>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.</li> </ul> <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>
46.	<p><b>Principal Certifier details</b></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> <ul style="list-style-type: none"> <li>a. 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,</li> <li>b. 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,</li> <li>c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,</li> <li>d. the consent holder, if not carrying out the work as an owner-builder, has: <ul style="list-style-type: none"> <li>i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and</li> <li>ii. notified the principal certifier of the appointment, and</li> <li>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,</li> </ul> </li> </ul>



	<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>
	<p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p>
<b>47.</b>	<p><b>s73 Compliance Certificate</b></p> <p>A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. It is recommended that the consent holder apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> &gt; Plumbing, building and developing &gt; Developing &gt; Section 73 Compliance Certificates, or telephone 13 20 92.</p> <p style="text-align: right;">3.203</p>
	<p>Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.</p>
<b>48.</b>	<p><b>Temporary fence or hoarding</b></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>
	<p>Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies.</p>
<b>49.</b>	<p><b>WC temporary toilet facilities on site</b></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>
	<p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p>
<b>50.</b>	<p><b>Sign with principal certifier details</b></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> <ol style="list-style-type: none"> <li>showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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</li> </ol>

<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> <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
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### DURING BUILDING WORK

Condition	
<p><b>51. Works in accordance with Building Code of Australia (BCA)</b></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> <p>Condition reason: Prescribed condition - EP&amp;A Regulation clause 98(1)(a).</p>	<p><b>52. Hours of Work</b></p> <p>Site work must only be carried out between the following times –</p> <ul style="list-style-type: none"> <li>a. 7.00 am and 5.00 pm on Monday to Saturday.</li> <li>b. No construction is to be carried out at any time on a Sunday or a public holiday.</li> </ul> <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 style="text-align: right;">4.204.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>
<p><b>53. Surveys by a registered surveyor</b></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> <ul style="list-style-type: none"> <li>a. All footings / foundations in relation to the site boundaries and any registered and proposed easements</li> <li>b. At other stages of construction – any marks that are required by the principal certifier.</li> </ul> <p style="text-align: right;">4.206.S</p> <p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>	
<p><b>54. Civil and Hydraulic engineering works</b></p> <p>All civil and hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. 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>	

	4.301
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
<b>55. Stormwater drainage system</b>	
	The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the principal certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
	4.302
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
<b>56. Driveway adequacy</b>	
	A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
	4.306
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
<b>57. Excavated safety</b>	
	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 his/her own expense:
	<ul style="list-style-type: none"> <li>a. Protect and support the building, structure or work from possible damage from the excavation, and</li> <li>b. Where necessary, underpin the building, structure or work to prevent any such damage.</li> </ul>
	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.
<b>58. Shoring and adequacy of adjoining properties</b>	
	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

	<p>structure or work within a road or rail corridor), the consent holder must, at their own expense:</p> <ol style="list-style-type: none"> <li>Protect and support the building, structure or work from possible damage from the excavation, and</li> <li>Where necessary, underpin the building, structure or work to prevent any such damage.</li> </ol> <p>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.</p> <p style="text-align: right;">4.309</p>
	<p>Condition reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
<b>59.</b>	<p><b>Retaining walls</b></p> <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 required 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>
<b>60.</b>	<p><b>Waste management</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>all waste management must be undertaken in accordance with the waste management plan, and</li> <li>upon disposal of waste, records of the disposal must be compiled and provided to , detailing the following: <ol style="list-style-type: none"> <li>The contact details of the person(s) who removed the waste</li> <li>The waste carrier vehicle registration</li> <li>The date and time of waste collection</li> <li>A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill</li> <li>The address of the disposal location(s) where the waste was taken</li> <li>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.</li> </ol> </li> </ol> <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</p>
	<p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p>
<b>61.</b>	<p><b>Removal of waste upon completion</b></p> <p>Before the issue of an occupation certificate:</p>



	<p>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</p> <p>b. written evidence of the waste removal must be provided to the satisfaction of the principal certifier.</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>
<b>62.</b>	<p><b>Site audit Statement</b></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>Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.</p> <p style="text-align: right;">4.603</p>
	<p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p>
<b>63.</b>	<p><b>Soil assessment</b></p> <p>All soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) before off-site disposal.</p> <p>All waste material for disposal to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines. Receipts for the disposal of the waste must be submitted to Council before issuing of an occupation certificate.</p> <p style="text-align: right;">4.608</p>
	<p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p>
<b>64.</b>	<p><b>Importing of fill</b></p> <p>Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).</p> <p style="text-align: right;">4.611</p>
	<p>Condition reason: To protect the natural environment of the development site and adjoining lands.</p>



**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

Condition	
<b>65. Number of car parking spaces</b>	
Eight (8) off-street car parking spaces i.e. 5 staff and 3 drop off/pick up car parking spaces, shall be provided and maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained for the lifetime of the development.	
Note: One (1) drop off/pick up car parking space, of the required car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1:2004. All car parking spaces shall be allocated and marked according to these requirements.	
5.105	
Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.	
<b>66. Bicycle Parking Spaces</b>	
Ten (10) bicycle parking spaces to be provided and maintained for the use of visitor and employees to the premises in accordance with the submitted plans.	
Note: The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 – ‘Parking Facilities’ Part 3: Bicycle Parking Facilities and ‘Austroads Bicycle Parking Facilities: Guidelines for Design and Installation.’	
Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.	
<b>67. Occupation certificate</b>	
The occupation or use of the building must not commence unless an occupation certificate has been issued.	
5.201	
Condition reason: To ensure compliance with the relevant New South Wales legislation.	
<b>68. Slab certification</b>	
A report as prepared by a registered surveyor must be submitted to the principal certifier verifying that the reduced level (RL) of the finished floor level at each level, the height of external walls, the maximum reduced level (RL) of roof structures / roof eaves overhangs and the external wall setbacks to the property boundaries all conform with the approved plans.	
5.203	
Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.	
<b>69. Post-construction Dilapidation Report</b>	
Before the issue of an occupation certificate, a post-construction dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing whether:	
a) after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and	

	<p>b) where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent, and</p> <p>c) a copy of the post-construction dilapidation report must be provided to council (where council is not the principal certifier or a principal certifier is not required) and to the relevant adjoining property owner(s).</p> <p style="text-align: right;">5.205.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>
<b>70.</b>	<p><b>Mechanical ventilation</b></p> <p>Before the issue of an occupation certificate, the principal certifier must ensure that the car park is ventilated in accordance with the Building Code of Australia and, where necessary, Australian Standard AS1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.</p> <p style="text-align: right;">5.206</p>
	<p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p>
<b>71.</b>	<p><b>Section 73 certificate</b></p> <p>The Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifier before the issue of an occupation certificate.</p> <p style="text-align: right;">5.208</p>
	<p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p>
<b>72.</b>	<p><b>Work Permit Compliance required</b></p> <p>An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).</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>
<b>73.</b>	<p><b>Works-As-Executed plans and any other Documentary Evidence</b></p> <p>Before the issue of the relevant occupation certificate, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the principal certifier:</p> <ul style="list-style-type: none"> <li>• All stormwater drainage systems and storage systems, and</li> <li>• The following matters that council requires to be documented in accordance with the Councils relevant Development Control Plan.</li> <li>• A copy of the plans must be provided to council with the occupation certificate.</li> </ul> <p style="text-align: right;">5.303</p>
	<p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
<b>74.</b>	<p><b>Restriction of use / covenant</b></p> <p>The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown</p>

	<p>Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act 1919.</p> <p>Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, before the issue of the Final occupation certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.</p> <p style="text-align: right;">5.304</p>
	<p>Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.</p>
<b>75.</b>	<p><b>Driveways certified</b></p> <p>A suitably qualified professional civil engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted before the issue of the occupation certificate or occupation of the site.</p> <p style="text-align: right;">5.307</p>
	<p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
<b>76.</b>	<p><b>Inspection by Environmental Health Officer</b></p> <p>Before the issue of an occupation certificate, a pre-occupation premises inspection report is to be undertaken by Council's Environmental Health Officer.</p> <p style="text-align: right;">5.601</p>
	<p>Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.</p>
<b>77.</b>	<p><b>Use for food premises</b></p> <p>All parts of the premises used for the storage, preparation and handling of food must be maintained and used in accordance with the requirements of:</p> <ol style="list-style-type: none"> <li>The Food Act 2003 and Food Regulation 2015; and</li> <li>Australia New Zealand Food Standards Code; and</li> <li>AS 4674 – 'Design, construction and fit-out of food premises'; and</li> <li>AS 1668.2 – 'The Use of Ventilation and Air-Conditioning in Buildings – Mechanical Ventilation in Buildings'</li> </ol> <p style="text-align: right;">5.602</p>
	<p>Condition reason: To ensure compliance with the relevant New South Wales legislation.</p>



**OCCUPATION AND ONGOING USE**

Conditions	
<b>78. Hours of operation</b>	
The hours of operation of the use shall be limited to between: <ul style="list-style-type: none"> <li>• 7.00am to 6.00pm on Monday, Tuesday, Wednesday, Thursday and Friday.</li> <li>• No hours of operation permitted on Saturday, Sunday or public holidays.</li> </ul> 7.102	
Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.	
<b>79. Fire Safety</b>	
During occupation and ongoing use of the building, the consent holder must provide an annual fire safety statement to Council and the Commissioner of Fire and Rescue NSW in accordance with clause 177 of the EP&A Regulation. 7.202.D	
Condition reason: To ensure compliance with the relevant New South Wales legislation and to ensure compliance with the relevant Australian Standard and National Construction Code.	
<b>80. Car parking not for storage</b>	
The approved 5 staff and 3 drop off/pick up car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles. 7.301	
<b>Condition reason:</b> To ensure the development is built and remains consistent with approved plans and documentation and to provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.	
<b>81. Waste Management Plan</b>	
The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out. 7.501	
Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.	
<b>82. Commercial waste contract</b>	
The consent holder shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time. 7.502	
Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.	
<b>83. Commercial waste</b>	
All commercial uses must engage and utilise the services of a private waste collection service and must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal. 7.503	

	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
<b>84. Waste generated on site</b>	
	All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the <i>Protection of the Environment Operations Act 1997</i> . All waste generated shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request. 7.504
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites
<b>85. Waste containers</b>	
	No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes. 7.507
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
<b>86. Collect and Return Service</b>	
	The nominated collect and return collection point are to be utilised to facilitate the collection of waste and recycling bins for the development. 7.512
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
<b>87. Business registration</b>	
	Before the issue of any occupation certificate, a business registration form must be completed and submitted to Council. This form is available online at <a href="http://www.cbcity.nsw.gov.au">www.cbcity.nsw.gov.au</a> . In the instance details on the original registration form change, Council is to be notified of the change within seven (7) days of the change occurring. 7.606
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
<b>88. Protection of Environment</b>	
	The development must not cause offensive noise as defined by the <i>Protection of the Environment Operation Act 1997</i> . Following occupation, should complaints of a noise nuisance be received and substantiated by an Authorised Officer, an acoustic assessment shall be conducted by a qualified acoustic consultant and the resulting report shall be provided to Council for approval. Following approval the owner/occupier shall then implement all recommendations contained in the assessment report within a timeframe set by Council, to the satisfaction of Council and in compliance with any additional direction given by Council. 7.618
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites and to ensure compliance with the relevant New South Wales legislation.
<b>89. Independent acoustic report</b>	
	Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not



	<p>previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation.</p> <p>A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.</p> <p style="text-align: right;">7.620</p>
	<p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites</p>
<b>90.</b>	<p><b>Commercial / Industrial activities</b></p> <p>The consent holder shall ensure that all activities within the premises comply with the relevant sections of the Protection of the <i>Environment Operations Act 1997</i> and Regulations and the NSW Environment Protection Authority Industrial Noise Policy (2000).</p> <p style="text-align: right;">7.623</p>
	<p><b>Condition reason:</b> To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites and to ensure compliance with the relevant New South Wales legislation.</p>
<b>91.</b>	<p><b>Amenity impacts</b></p> <p>The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.</p> <p style="text-align: right;">7.624</p>
	<p>Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.</p>
<b>92.</b>	<p><b>Warmwater System</b></p> <p>The installation, operation and maintenance of any warm-water system on the premises must be undertaken in accordance with the relevant provisions of:</p> <ol style="list-style-type: none"> <li>i. Public Health Act 2010;</li> <li>ii. Public Health Regulation 2012;</li> <li>iii. AS 3666.1-2011, 'Air-handling and water systems of buildings - Microbial control, design, installation and commissioning';</li> <li>iv. AS 3666.2-2011, 'Air-handling and water systems of buildings - Microbial control, operation and maintenance';</li> <li>v. AS 3666.3-2011, 'Air-handling and water systems of buildings - Microbial control, performance-based maintenance of cooling water systems'; and</li> <li>vi. NSW Guidelines for Legionella Control in Cooling Water Systems (NSW Health, 2018)</li> </ol> <p>The warm-water system must be registered with Council. A registration form is available on Council's website which must be completed and submitted to Council prior to operation.</p> <p style="text-align: right;">7.625</p>

	Condition reason: To ensure compliance with the relevant New South Wales legislation.
<b>93. Emergency response</b>	Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times. <div>7.632</div>
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites
<b>94. Maintenance of landscaping</b>	The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. <div>7.701</div>
	Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
<b>95. Maintenance of lighting</b>	Any lighting of the premises must be installed in accordance with AS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area. <div>7.902</div>
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
<b>96. Hand wash basins</b>	Hand wash basins must be provided in all parts of the premises where open food is handled. The hand wash basin is to be located and installed in such a way that they are not obstructed, are at bench height either permanently fixed to a wall, to a supporting frame or set in a bench top and is accessible no further than 5 metres away from any place where food handlers are handling open food.  The hand wash basin is to have a permanent supply of warm running potable water mixed to a temperature of at least 40°C and delivered through a single outlet. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to the hand wash basin. A waste receptacle for used towels shall be provided.  Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites
<b>97. Noise and vibration</b>	The operation shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupants. In the event of Council receiving complaints and considers that excessive noise is emanating from the premises, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of noise emanating from the premises. These measures

	shall be approved by Council prior to implementation and shall be at full cost to the applicant.
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites

- END -