



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

5 September 2022 - 6.00pm

ORDER OF BUSINESS

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

DARANI / BANKSTOWN WARD

- | | | |
|----------|--|---|
| 1 | DA-122/2021 - 27 - 31 Sir Joseph Banks Street, Bankstown
Demolition of existing structures and construction of a four storey residential flat building consisting of 27 apartments and basement parking under State Environmental Planning Policy (Affordable Rental Housing) 2009 | 3 |
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BUDJAR / CANTERBURY WARD

- | | | |
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| 2 | DA-412/2022 - 5 Wallace Avenue, Hurlstone Park
Alterations and Additions to existing dwelling including single storey rear extension. Demolition of existing carport and shed, and construction of a garage. | 59 |
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Canterbury Bankstown Local Planning Panel - 05 September 2022

ITEM 1	DA-122/2021 - 27 - 31 Sir Joseph Banks Street, Bankstown
	Demolition of existing structures and construction of a four storey residential flat building consisting of 27 apartments and basement parking under State Environmental Planning Policy (Affordable Rental Housing) 2009
FILE	DA-122/2021 – Darani / Bankstown
ZONING	R4 High Density Residential
DATE OF LODGEMENT	5 March 2021
APPLICANT	Mr Nicholas Lycenko
OWNERS	Moderndale Pty Ltd
ESTIMATED VALUE	\$7,821,000.00
AUTHOR	Planning

REPORT

This matter is reported to Council in accordance with the Local Planning Panels Direction made by the Minister for Planning and Public Spaces, the Canterbury-Bankstown Local Planning Panel is required to determine applications involving development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies and is four or more storeys in height. The development proposed under DA-122/2021 meets this criterion and is therefore reported to the Canterbury-Bankstown Local Planning Panel for determination.

Development Application No. DA-122/2021 proposes the construction of a four-storey residential flat building consisting of 27 apartments and basement parking under State Environmental Planning Policy (Affordable Rental Housing) 2009.

DA-122/2021 has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against *State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)*, *State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)*, *State*

Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy (Housing) 2021, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, Bankstown Local Environmental Plan 2015 (BLEP 2015), Draft Canterbury Bankstown Local Environmental Plan 2020, and Bankstown Development Control Plan 2015 (BDCP 2015).

The application is generally compliant, however proposes a variation to the side boundary setback control standard contained in *Bankstown Development Control Plan 2015* and the design criteria for separation distance contained within the Apartment Design Guide, as per *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*. The assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

The application was advertised for a period of 21 days. No submissions have been received for the subject Development Application.

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

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

The proposed matter being reported has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-122/2021 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject sites are known as Nos 27 and 31 Sir Joseph Banks Street, Bankstown and consists of two allotments identified as Lot 18 in DP 7883 and Lot 19 in DP 7883. The site has a combined area of 2,333.4m² and frontage of 32.61m to Sir Joseph Banks Street with a fall of approximately 1m from the rear (north-eastern) corner to the front (south-western) corner.

The site is situated on the eastern side of Sir Joseph Banks Street, approximately 50 metres north of its intersection with Milton Street. The site is zoned R4 High Density Residential and, in the most part, is generally rectangular in shape. The surrounding development generally comprises of residential flat buildings to the north, south, west and dwellings with ancillary structures to the south-east.

The existing development on the site includes two residential cottages and ancillary structures. Existing vegetation on the site consists of twenty-one (21) trees of varying size, contribution and maturity while a street tree is located in the road reserve immediately in front of No 31 Sir Joseph Banks Street.

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



Figure 1: Aerial of subject site in green. **Source:** NearMaps 2022

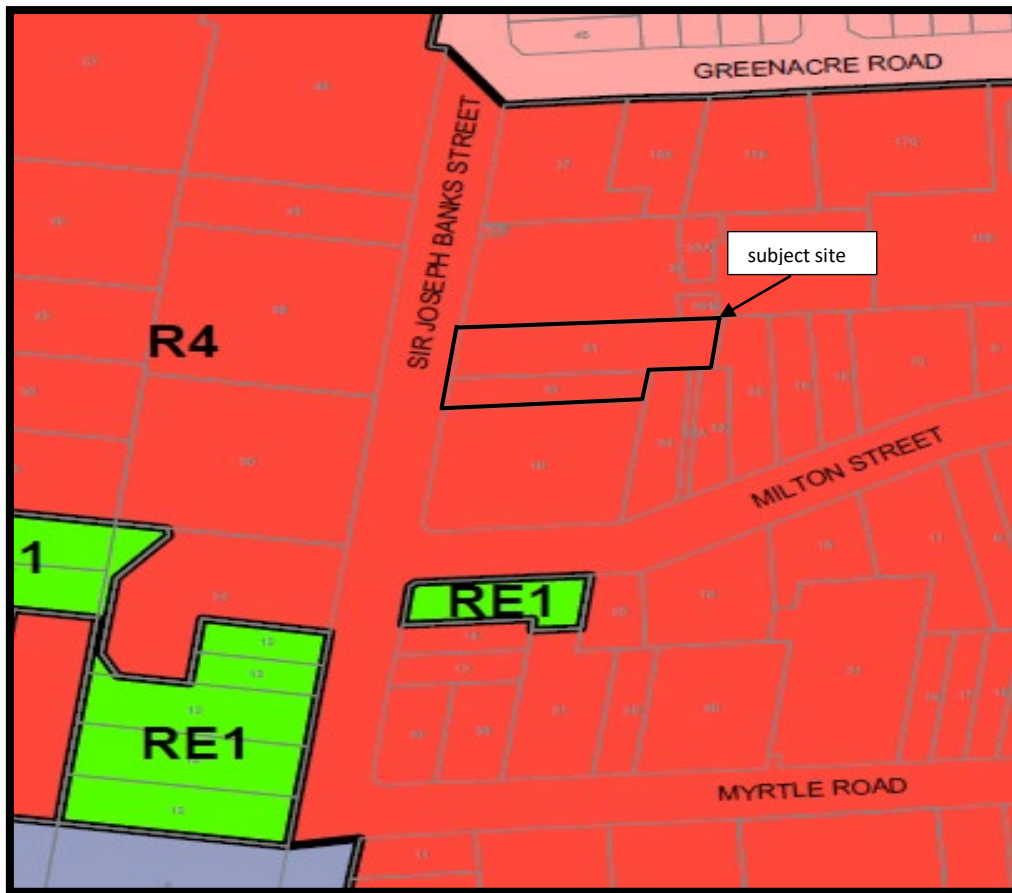


Figure 2: Zoning Map Excerpt BLEP 2015

PROPOSED DEVELOPMENT

The Development Application proposes the following:

- Demolition of existing structures.
- Removal of twenty-one (21) on-site trees.
- Consolidation of two (2) existing allotments into one (1) allotment.
- Construction of a four (4) storey residential flat building, consisting of twenty-seven (27) apartments and basement car parking.
- The twenty seven (27) apartments consist of the following; 2 x 1 bedroom apartments, 18 x 2 bedroom apartments (including 1 x 2 bedroom plus study) and 7 x 3 bedroom apartments (including 1 x 3 bedroom plus study) of which 6 apartments have been identified as adaptable apartments.
- A single level basement car park providing for thirty-three (33) residential car parking spaces (of which 2 are accessible spaces) and 5 visitor car parking spaces (of which 1 is an accessible space while another is also identified as a car wash bay).
- New vehicular access off Sir Joseph Banks Street provided at the south western corner of the site.
- Communal open space, landscaping, garbage room.



Figure 1: Photomontage of the development (on the left) with the existing 3 storey residential flat building which occupies 19-25 Sir Joseph Banks Street to the right.

SECTION 4.15 ASSESSMENT

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

Statutory Considerations

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

- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment ('Deemed SEPP')
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020
- Bankstown Development Control Plan 2015 (BDCP 2015)

Note: On 2 December 2021, the Department of Planning and Environment announced the consolidation of SEPPs to align with 9 focus areas of the NSW planning system. This consolidation occurred on 1 March 2022 with a number of the SEPPs listed above having been consolidated into new SEPPs, though the aims, requirements and considerations have not changed. It is considered that through demonstration of compliance and consistency with the above SEPPs, compliance and consistency with the new consolidated SEPPs is achieved. A summary of these transitional considerations are provided below:

Previous Policy	Current Policy	Savings Provisions
State Environmental Planning Policy No 55 – Remediation of Land	State Environmental Planning Policy (Resilience and Hazards) 2021	No
State Environmental Planning Policy (Affordable Rental Housing) 2009	State Environmental Planning Policy (Housing) 2021	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	State Environmental Planning Policy (Biodiversity and Conservation) 2021	No
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment		No

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

State Environmental Planning Policy No 55 - Remediation of Land

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

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

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

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

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

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

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

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

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)

This policy applies to residential apartment development and is required to be considered when assessing this application. Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing or mixed-use development with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least 3 or more storeys and contain at least 4 or more dwellings, with this development being 4 storeys.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application that addresses the design quality principles contained in SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the ADG have been achieved.

The proposal has been considered against the various provisions of the ADG in accordance with Clause 28 (2)(c) of SEPP 65. The development is consistent with the objectives and Design Quality Principles contained in SEPP 65 and ADG and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'design criteria' contained in the Apartment Design Guide, as illustrated through the submitted Design Verification Statement and the table below.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development														
Criteria		Requirement		Provided		Complies								
Part 3 Siting the Development														
3D-1 Communal and Public Open Space		Minimum open space area is equal to 25% of the site area. 50% direct sunlight to principal usable part of open space for 2 hours between 9am and 3pm on June 21.		The principal communal open space area is located at the north-eastern corner and a smaller area to the north-western corner of the site which are considered to be suitable locations with regards to long-term solar access. 750.2m ² of open space for a site area of 2333.4m ² = 32% communal open space. Open space achieves compliant solar access with in excess of 200m ² of area located at the north-east quadrant of the site achieving two hours access at the June solstice.		Y								
3E-1 Deep Soil Zones		<table><tr><td>Site Area</td><td>Minimum Dimension</td><td>Deep Soil %</td></tr><tr><td>650m² – 1,500 m²</td><td>3m</td><td>7%</td></tr></table>	Site Area	Minimum Dimension	Deep Soil %	650m ² – 1,500 m ²	3m	7%	492.8m ² / 2333.4m ² = 21% of the site is dedicated as deep soil achieving a minimum dimension of 3 metres throughout.		Y			
Site Area	Minimum Dimension	Deep Soil %												
650m ² – 1,500 m ²	3m	7%												
3F-1 Visual Privacy		<table><tr><td>Building Height</td><td>Habitable Rooms & Balconies</td><td>Non-habitable Rooms</td></tr><tr><td>Up to 12m</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m</td><td>9m</td><td>4.5m</td></tr></table>	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m	6m	3m	Up to 25m	9m	4.5m	Separation up to 12m (4 storeys) Building setback to the North – 5.06m to 6.846m Building setback to the South – 4.980m Building setback to the East – 7.6m		N
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms												
Up to 12m	6m	3m												
Up to 25m	9m	4.5m												
3J-1 Bicycle and Car Parking		Car parking is provided based on proximity to public transport in Metropolitan Sydney and centres in regional areas. 0.5 space per 1 bed 1 space per 2 bed 1.5 spaces per 3+ bed 2 x 1 bed apartments = 1 18 x 2 bed apartments = 18		Parking provided complies with SEPP ARH. Total spaces proposed = 33 residential car spaces (of which 2 are accessible spaces) and 5 visitor spaces (of which 1 is an accessible space while another is also identified as a car wash bay).		Y								

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development												
Criteria	Requirement		Provided	Complies								
	7 x 3 bed apartments = 10.5 Total spaces required = 30 spaces											
PART 4 – DESIGNING THE BUILDING												
4A-1 Solar and Daylight Access	At least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. A maximum of 15% of apartments in a building receive no direct sunlight.		All units achieve two-hour solar access minimums per the ADG and comply with the minimum 3-hours access per SEPP ARH. No apartments receive no solar access.	Y								
4B-3 Natural Ventilation	At least 60% of apartments are naturally cross ventilated.		Natural cross-ventilation is considered suitable with 81% compliance (22 of 27 units).	Y								
4C-1 Ceiling Heights	<table><tr><td>Habitable Room</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table>		Habitable Room	2.7m	Non-habitable	2.4m	Ceiling heights are suitable for habitable and non-habitable rooms, with a minimum of 2.7 metres provided.	Y				
Habitable Room	2.7m											
Non-habitable	2.4m											
4D-1 Apartment Size and Layout	<table><tr><td>Studio</td><td>35m²</td></tr><tr><td>1-bed</td><td>50m²</td></tr><tr><td>2-bed</td><td>70m²</td></tr><tr><td>3-bed</td><td>90m²</td></tr></table> Additional bathrooms (i.e. more than 1) increase the minimum internal area by 5m ²		Studio	35m ²	1-bed	50m ²	2-bed	70m ²	3-bed	90m ²	All apartments have 2 bathrooms (with the exception of Apartments 1, 2, 17 and 17A) 18 x 2 bed apartments are each required to have a min area of 75m ² = the smallest apartment is 78m ² 7 x 3 bed apartments are each required to have a min area of 95m ² = the smallest apartment is 95m ² Apartments 1 and 17 (2 bed apartments) and 2 and 17A (1 bed apartments) have only one bathroom hence require a minimum internal area of 70m ² and 50m ² respectively. Apartment 1 = 81m ² Apartment 2 = 55.6m ² Apartment 17 = 78m ² Apartment 17A = 53m ²	Y
Studio	35m ²											
1-bed	50m ²											
2-bed	70m ²											
3-bed	90m ²											

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development																
Criteria	Requirement			Provided	Complies											
4D-2 Apartment Size and Layout	Habitable room depths are limited to a maximum of 2.5 x the ceiling height. The maximum habitable room depth is 8m from a window			All apartments comply with the maximum habitable room depth requirements for 1-bedroom; 2-bedroom; 3-bedroom No apartments exceed an 8-metre room depth from a window.	Y											
4D-3 Apartment Size and Layout	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² Bedrooms have a minimum dimension of 3m Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">• 3.6m for studio and 1-bedroom apartments• 4m for 2-bedroom and 3-bedroom apartments			All bedrooms comply with minimum dimensions and areas. All living rooms comply with the minimum dimensions based on number of bedrooms.	Y											
4E-1 Private Open Space and Balconies	<table><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1-bed</td><td>8m²</td><td>2m</td></tr><tr><td>2-bed</td><td>10m²</td><td>2m</td></tr><tr><td>3+bed</td><td>12m²</td><td>2.4m</td></tr></table> Ground level private open space must have a minimum area of 15m ² and a minimum depth of 3m	Studio	4m ²	-	1-bed	8m ²	2m	2-bed	10m ²	2m	3+bed	12m ²	2.4m	All units comply with minimum areas required and with minimum depths for ground floor and upper-floor balconies.		Y
Studio	4m ²	-														
1-bed	8m ²	2m														
2-bed	10m ²	2m														
3+bed	12m ²	2.4m														
4F-1 Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40			Common circulation provided is legible and satisfactorily dimensioned. Two (2) lift circulation cores provided on each floor level No. of apartments access per floor from lift 1: Ground floor level – 3 units First floor level – 3 units Second floor level - 3 units Third floor level – 2 units	Y											

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development				
Criteria	Requirement		Provided	Complies
			No. of apartments access per floor from lift 2: Ground floor level – 4 units First floor level – 5 units Second floor level - 4 units Third floor level – 3 units	
4G-1 Storage	Studio	4m ³	Storage plan provided and demonstrates compliance.	Y
	1-bed	6m ³		
	2-bed	8m ³		
	3+bed	10m ³		
4O-1 Landscape Design	Landscape design is viable and sustainable		Provides for a range of planting areas and specimens for large trees and shrubbery.	Y

In the light of the content of the above table, the following deficiencies were identified:

Objective 3F-1 – Visual Privacy

Objective 3F-1 - Visual Privacy of the Apartment Design Guide requires a minimum separation distance of 6m for habitable rooms and balconies and 3m for non-habitable rooms for a building height of up to 12m (4 storeys) to the side and rear boundaries. The application proposes a minimum setback of 5.06m to 6.846m from habitable rooms & balconies to the northern boundary and a minimum setback of 4.980m from habitable rooms to the southern boundary at the closest points. The non-compliances relate to the northern elevation wall of the building and the balconies on the first, second and third floor levels; and the southern elevation wall of the building and habitable rooms on the first-floor level.

The separation distance variation to the northern and southern boundary is considered to be minor in nature. The adjoining properties, known as No. 33-35 and No. 19-25 Sir Joseph Banks Street are occupied by established residential flat buildings. Despite the proposed development not providing the minimum setback requirement, the existing residential flat building to the north and south contain an increased setback, that when combined with the setback proposed on the subject site, provides substantial separation distance in accordance with the ADG of a minimum 12 metres. The proposed development is separated between 15.27m to 18.6m to the existing residential flat building to the north and is separated by between 14.55m to 17.85m to the existing residential flat building to the south with the exception of a two-storey component (on the ground and first floor level) that is setback 4.98 metres to the southern boundary and separated 10.9m to the southern neighbouring building.

The two-storey component has been designed with consideration given to the amenity of the neighbouring building and the future residents of the proposed development, particularly Apartment Nos. 13 and 17. The apartments have been designed with east facing living areas to eliminate potential privacy impacts. Apartment No. 17 provides translucent glass blocks to the south facing windows and Apartment No. 13 provides a privacy screen atop the 1.8m high fence adjacent to the south facing windows. Therefore, it is considered that the intention of the control and objectives of the ADG have been met and that any impact on visual privacy has been negated.

In light of the above, it is considered that the proposal will ensure a satisfactory degree of visual privacy for the adjoining properties. Despite the numerical non-compliances, adequate separation is achieved to the northern and southern adjoining properties. It is therefore recommended that the proposed variation to Objective 3F-1 of the Apartment Design Guide be supported in this instance.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The application is for infill affordable housing lodged pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). This Policy aims to provide new affordable rental housing and retain and mitigate any loss of existing housing by provision of a consistent planning regime. Specifically, the Policy provides for new affordable rental housing by offering incentives such as, floor space ratio bonuses.

The following provisions of the SEPP are relevant to this proposal:

Permissibility (Clause 10(1))

The proposal is for in-fill affordable housing development comprising of a residential flat building which is permissible in Zone R4 - High Density Residential pursuant to Clause 10(1) of SEPP ARH. Since residential flat buildings are permissible in the zone under Bankstown Local Environmental Plan (BLEP) 2015 and the proposal is not located on land containing a heritage item, Clause 10(1) of the SEPP is considered to be satisfied.

Accessibility (Clause 10(2))

Clause 10(2) of the SEPP also requires that in-fill affordable housing developments in the Sydney Region be located within an 'accessible area' which is an area in proximity of certain transport nodes, including being within 800m walking distance to the entrance of a railway station or within 400m walking distance to a bus stop used by a regular bus service as defined by the ARH SEPP.

The site is located within 400m walking distance to a bus stop used by a regular bus service that has at least one bus per hour servicing the bus stop. The application therefore satisfies the requirements of this Clause. Given the distance to the bus stop, the site constitutes an "accessible area" under the ARH SEPP.

Floor space ratio (FSR) bonus (Clause 13)

Clause 13(1) of the SEPP outlines the floor space ratio (FSR) bonus applicable to in-fill affordable rental housing if the percentage of gross floor area (GFA) to be used for affordable housing is at least 20% of the gross floor area of the development.

Floor space ratio is defined as the maximum floor space allowable in the subject zone (i.e. 1:1 as per BLEP 2015) plus a floor space bonus based on the amount of floor space to be dedicated to affordable rental housing.

The development provides a total gross floor area (GFA) of 2624m² representing an FSR of 1.12:1.

This application proposes to dedicate 20% of the total GFA (i.e. 527m² – 6 of 27 units) as affordable housing, it therefore benefits from an FSR bonus.

Given the maximum allowable floor space ratio in the subject zone is 1:1, but increases to 1.20:1 with the added bonus of 0.20:1 emanating from the applicant's dedication of 20% of the total GFA of the proposal as affordable housing, the proposed FSR of 1.12:1 complies with and is less than the maximum allowable FSR, satisfying the requirements of this clause.

Minimum standards that cannot be used to refuse consent (Clause 14)

Clause 14 prescribes minimum standards which cannot be used by Council to refuse consent. The following table is an assessment of the proposal against these standards:

Control	Requirement	Proposal	Complies
Site area	450m ²	2,333.4m ²	Y
Landscaped area	30% of site	874m ² of landscaped area is provided. 37% of the site area is landscaped.	Y
Deep soil zone	15% of site (equal to 350.01m ²), 3m minimum dimension, Two-thirds located at rear of site if practicable	517m ² of deep soil zone is provided 22% of the site area provided as deep soil	Y
Solar access	Living rooms and private open space areas for a minimum of 70% of dwellings are to receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	Total Apartments = 27 81% receive a min 3 hrs of direct sunlight = 22 apartments	Y

Car parking	0.5 space per 1 bed 1 space per 2 bed 1.5 spaces per 3+ bed Proposed 2 x 1 bed apartments 18 x 2 bed apartments 7 x 3 bed apartments	2 x 1 bed apartments = 1 18 x 2 bed apartments = 18 7 x 3 bed apartments = 10.5 Total spaces required = 30 spaces Total spaces proposed = 33 residential car spaces (of which 2 are accessible spaces) and 5 visitor spaces (of which 1 is an accessible space while another is also identified as a car wash bay).	Y
Dwelling size	50m ² per 1 bed 70m ² per 2 bed 95m ² per 3 or more bed	2 x 1 bed apartments = min 53m ² 18 x 2 bed apartments = min 78m ² 7 x 3 bed apartments = min 95m ²	Y

As demonstrated above the proposed development complies with all standards prescribed in Clause 14 of SEPP ARH.

Character of local area (Clause 16A)

The proposed development is consistent with the character of the area being of a form, size and scale consistent with the adjoining high-density residential developments. The design put forward with this DA, is sympathetic to the existing character through the selection of materials and finishes and provides for a building that aligns with the built form, bulk & scale evident within the area and generally conforms to the desired future character of the area.

The development achieves a walkable, legible pedestrian interface within the surrounding properties, the street alignment and 6.8m front boundary setback facing Sir Joseph Banks Street is maintained (noting that it is also consistent with the existing alignment).

Council concludes that the development provides for an appropriate response to the opportunities afforded by the ARH SEPP and relevant planning controls and is consistent with the character of the local area.

Must be used for affordable housing for 10 year (Clause 17)

Conditions of consent will be imposed to achieve compliance with this clause.

State Environmental Planning Policy (Housing) 2021

Pursuant to section 4.15(1)(a)(i) of the EPA Act 1979, consent authorities are required to take into consideration the provisions of SEPP (Housing) 2021 when assessing development applications for various types of housing typologies. The instrument came into force on 26 November 2021 and includes a savings provision whereby applications lodged prior to the commencement of the instrument are required to consider the SEPP but would not be bound by it (continuing to have the same authority as a proposed instrument).

The instrument makes several changes to a variety of types of residential accommodation, including in-fill affordable housing. The table below outlines this application's compliance with the relevant changes to the specified development typology:

Division 1 In-Fill Affordable Housing			
Standard	Change	Proposal	Compliance
16 Development to which Division applies (formerly 10 Development to which Division applies)	Change to remove item (b) regarding applications on land containing a heritage item.	The subject site does not contain a heritage item and is not impacted by the change.	Y
17 Floor space ratio (formerly 13 Floor space ratio)	Changes to calculation of bonus FSR for sites with an existing FSR in excess of 2.5:1, as well as clarification that the bonus is to be used for affordable housing purposes.	The subject site has an existing FSR of less than 2.5:1 and so is not impacted by changes to the bonus calculation. This application proposes to dedicate 20% of the total GFA (i.e. 527m ² – 6 of 27 units) as affordable housing, it therefore benefits from an FSR bonus.	Y
18 Non-discretionary development standards—the Act, s 4.15 (formerly 14 Standards that cannot be used to refuse consent)	Dwelling size minimums shift from areas noted under ARH SEPP to the Apartment Design Guide.	Minimum dwelling sizes comply with ADG requirements	Y
Repealed (formerly 16A Character of local area)	Removal of requirement for consent authority to consider compatibility with character of local area.	N/A	N/A
21 Must be used for affordable housing for at least 15 years (formerly 17 Must be used for affordable housing for 10 years)	Change in affordable housing duration from 10 to 15 years.	Subject development is to be run by a social housing provider, which results in the duration requirement not being applicable.	N/A

Division 1 In-Fill Affordable Housing			
Standard	Change	Proposal	Compliance
Addition of 18 Subdivision	Land of the development may be subdivided	No subdivision is proposed	N/A

The subject application is consistent with the abovementioned principals and provisions of SEPP (Housing) 2021.

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

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

BASIX Certificate No. 522404M_08, dated 19 January 2021 was submitted with the assessment of the development application and demonstrates that the proposal achieves compliance with the BASIX water, thermal comfort and energy efficiency targets.

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

The proposed development seeks approval for the removal of twenty-one (21) trees. Council's Tree Management Officer has reviewed the application and raised no objection to the removal of the trees on site, subject to replacement tree plantings and the tree protection measures recommended. Conditions of consent have been imposed to achieve this requirement. It is considered that the proposal satisfies the provisions of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

Bankstown Local Environmental Plan 2015

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

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

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

Clause 1.2 Aims of Plan

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

1.2 Aims of Plan

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

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

Clause 2.3 - Zone objectives and Land Use Table

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

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

Clause 4.3 - Height of buildings

The proposal complies with the development standards contained in Clause 4.3 of BLEP 2015. The development proposes a maximum HOB of 13m which meets the maximum HOB requirement of 13m under the BLEP 2015.

Clause 4.4 - Floor space ratio

In accordance with BLEP 2015 Floor Space Ratio Map, the maximum permitted floor space ratio for the subject site is 1:1. However, the proposal is afforded an additional bonus floor space ratio of 0.2:1 under Clause 13(1) of *SEPP (Affordable Rental Housing) 2009*. The proposed FSR for the development is 1.12:1 and is therefore compliant with the maximum permitted floor space ratio for this development which is 1.2:1.

Clause 6.2 - Earthworks

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

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

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

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

Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. The Draft CBLEP 2020 has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft CBLEP 2020 provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With respect to the proposed development the proposal remains consistent with the aims and objectives of the draft instrument. The proposed development is not inconsistent with the draft provisions.

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

Bankstown Development Control Plan 2015

The following table provides for an assessment of the development against the relevant controls contained in Section 9 of Part B1 of the Bankstown Development Control Plan 2015 (BDCP).

Bankstown Development Control Plan 2015 Part B1 Section 9 Residential Flat Buildings					
Clause		Requirement		Comment	Complies
9.1 Isolation of allotments		On land zoned R4 avoid isolating land with an area less than 1,200m ² and a width of 20 metres at the front building line.		The development will not isolate adjoining properties	Y
9.2 Storey limit		Max. Building Height (BLEP)	Storey Limit (BDCP)	A 13 metre building height per BLEP 2015 allows for 4 storeys, with 4 storeys proposed.	Y
		13m	4		
9.3 Storey limit (Compatible with slope and contours)		Must be compatible with the existing slope and contours of the allotment and any adjoining property.		Development is compatible with the gentle slope of the land, from the north-east to the south-west.	Y
9.4 Storey limit (Fill)		Reconstituted ground level on the allotment must not exceed a height of 600mm above NGL of an adjoining property.		No proposed retaining walls higher than existing NGL.	Y
9.5 Primary and secondary setback restrictions		Min. 6 metre primary road setback.		6.8 metre primary road setback	Y
9.10 Setbacks to side and rear boundaries (Basement level)		Minimum 2 metre basement setback to side and rear boundaries.		Minimum 700m to maximum 2 metres to the northern boundary; and minimum 2.0 metre setbacks provided to southern and eastern property boundaries.	N See discussion below
9.11 Setbacks to side and rear boundaries (Driveway)		Minimum 1 metre driveway side setback.		3.065 metres setback between the driveway edge and property boundary at ground level.	Y

Bankstown Development Control Plan 2015 Part B1 Section 9 Residential Flat Buildings			
Clause	Requirement	Comment	Complies
9.12 Private open space	Private open space is to be behind the front building line (not applicable to balconies for articulation).	Private open spaces are located behind the front building line.	Y
9.13 Building design (SEPP 65)	SEPP 65 applies.	Considered within this report.	Y
9.15 Building design (Adaptable units)	10 or more dwellings must provide 1 adaptable dwelling plus an adaptable dwelling per every 50 dwellings.	6 adaptable dwellings provided.	Y
9.16 and 9.20 Building design (Roof pitch and roof-top balconies)	35-degree maximum roof pitch. Roof-top balconies not permitted	Flat roof proposed, with no roof-top balconies.	Y
9.21 Building Design (Plant rooms and services).	Plant room and services must be integrated within the architecture and be screened from view from the street and adjoining properties	Plant rooms and services are proposed to be integrated within the design of the development.	Y
9.22 Building design (car parking)	Car parking is to be behind the front building line	All car parking is located behind the front building line.	Y
9.23 – 9.27 Building Design (substations, utilities and building services).	Substations, utilities and building services are to be integrated into the building design and concealed from public view.	No substation proposed. Services and utilities are incorporated into the design of the proposal.	Y
9.28 – 9.29 Landscaping	Retain and protect significant trees.	Tree removal considered suitable via conditions of consent. Minimum 45% landscaped front setback. Provisions for multiple tree plantings.	Y

Bankstown Development Control Plan 2015 Part B5 Parking			
Clause	Requirement	Comment	Complies
2.1	Parking Rate for RFB: In Zone R4, Zone B1, Zone B2 and Zone B6 <ul style="list-style-type: none"> • 1 car space per 1-bedroom dwelling; or • 1.2 car spaces per 2-bedroom dwelling; or • 1.5 car spaces per 3 or more-bedroom dwelling; and • 1 visitor car space per 5 dwellings. 	Proposed: 33 residential car spaces, 5 visitor spaces, including 2 accessible car spaces. Required: 34 car spaces 5 visitor spaces Under SEPP (ARH) Total spaces required = 30 spaces	N/A

The following comments are offered in relation to the proposed departure to the provisions contained within Clause 9.10 of Part B1 of the BDCP 2015;

Clause 9.10, Part B1 of BDCP 2015 stipulates the following:

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

The proposed setback of the basement level to the northern boundary varies from a minimum of 700mm to a maximum of 2 metres. The proposed development satisfies the minimum setback distance to the eastern and southern property boundaries specified by the BDCP 2015 with in excess of the minimum 2 metres setback provided.

The portion containing the reduced setback of the basement to the northern boundary is required in order to achieve sufficient manoeuvrability, car parking and access for the required spaces as well as access for the fire stairwells.

This minor non-compliance is considered to be acceptable, subject to the imposition of a condition of consent requiring a dilapidation report to be prepared for the adjoining properties to the north, prior to the commencement of construction works. Furthermore, the reduced setback can still facilitate for appropriate perimeter plantings so as to maintain the amenity of the adjoining property owners.

Bankstown Development Control Plan 2015, Part B13 – Waste Management and Minimisation

The application was referred to Council's Waste Services unit who raised no objection to the proposal in accordance with Council's *Waste Management Guide for New Developments*, subject to conditions of consent.

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

There are no planning agreements applicable to the proposed development.

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

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

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

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with visual privacy criteria in the ADG and the setback control in BDCP 2015, have been addressed and are considered worthy of support. As such, it is considered that the impact of the proposed development on the locality will be acceptable.

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

The site is considered suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was advertised for a period of 21 days. No submissions have been received for the subject Development Application.

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the development controls contained in the *Bankstown Development Control Plan 2015* and the *Bankstown Local Environmental Plan 2015*, and the requirements of the *Affordable Rental Housing SEPP*. As such, approval of the development would be consistent with the wider public interest.

CONCLUSION

The Development Application has been assessed against the matters for consideration contained within Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*, requiring an assessment against, amongst other things, the provisions contained within *State Environmental Planning Policy No 55 – Remediation of Land*, *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*, *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*, *State Environmental Planning Policy (Housing) 2021*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Bankstown Local Environmental Plan 2015*, the *Draft Consolidated LEP 2020* and *Bankstown Development Control Plan 2015*.

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

Relevant planning controls have been appropriately responded to and approval of this application would facilitate the provision of affordable housing development on a site within an 'accessible area' without having any unacceptable or unreasonable impacts on the surrounding locality.

SCHEDULE 1 – CONDITIONS

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

1. Approved Development.

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

Drawing No.	Plan Name	Date	Revision	Prepared By
A0001	Site Plan	July 22	E	Nicholas Lycenko
A1000	Basement Floor Plan	July 22	E	Nicholas Lycenko
A1001	Ground Floor Plan	July 22	E	Nicholas Lycenko
A1002	Level 01 Floor Plan	July 22	E	Nicholas Lycenko
A1003	Level 02 Floor Plan	July 22	E	Nicholas Lycenko
A1004	Level 03 Floor Plan	July 22	E	Nicholas Lycenko
A1005	Roof Plan	Dec 21	C	Nicholas Lycenko
A2000	Elevations 01	July 22	E	Nicholas Lycenko
A2001	Elevations 02	July 22	E	Nicholas Lycenko
A3000	Section A-A	July 22	E	Nicholas Lycenko
13-2781 LO1	Landscape Plan	14.07.2022	F	Zenith Landscape Designs
13-2781 LO2	Landscape Plan	08.12.2021	F	Zenith Landscape Designs
13-2781 LO3	Landscape Plan	08.12.2021	F	Zenith Landscape Designs

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

Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.

- a) The 'laundry' door in Apartments 4, 7, 24 and 25 shall be removed and the elements of the laundry (washing machine, dryer, sink etc.) shall be contained behind bifold or sliding doors.
- b) The area of the 'study' room in Apartment 10 shall be reduced by repositioning the southern internal wall of the 'laundry' and increasing its area; and the 'store' in the 'study' is to be relocated to within the northern end of the 'laundry', and the width of Bed 1 shall be increased; in order to limit the size of the 'study' so as to preclude it from being used as a bedroom.

- c) The area of the 'study' room in Apartment 11 shall be reduced in size by repositioning the southern internal wall of the 'kitchen' and reorganising the area of the main bathroom & 'store' to take up more of the study whilst also accommodating reasonable access to the 'study', so as to preclude it from being used as a bedroom.
- d) The shared accessible area associated with parking space number 9 shall be clear of obstructions. Alternatively relocate the accessible parking space.
- e) Austroads Guide to Traffic Engineering Practice Part 14 states that 1 bicycle space should be provided per 3 units, and therefore 9 bicycle spaces that comply with AS 2890.3:2015 shall be clearly shown on the plan. The spaces shall be protected from vehicle encroachment and such measures shall also be shown on the plan. The plan shows 6 spaces. Another 3 needs to be accommodated in the basement level.
- f) The accessible parking space number 19 located in the basement level, shall be relocated to have a 2.4m wide shared area along the entire space.

1.2. Waste Management Plan Implementation

The requirements of the approved WMP shall be complied with at all times that the approved development is being carried out.

1.3. Waste Policy

The development must be carried out in compliance with Council's "Domestic Waste and Recycling Service Policy and Guideline".

1.4. Waste Facilities Maintained

Any waste facilities approved under this consent must be maintained in a proper and workmanlike state at all times and must be kept clear and accessible to Council to undertake waste collection services. The facilities must not be altered without prior Council approval.

1.5. Signage

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.

- 1.6. No approval is granted for the siting of any substation on the site. Any change to this condition requires an application to be submitted and determined by Council. The application must demonstrate how the structure/ facility will be integrated into the design of the building without being located within the front setback area, landscaped area or in any area visible from the public domain.

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

- 2.1. Development Contributions of \$197,129.00 must be paid for this development before the issue of any construction certificate. The contributions are levied under Bankstown Development Contributions Plan 2019 and Section 7.11 of the Environmental Planning and Assessment Act 1979. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development. The development contribution will be allocated to the following purposes under the contributions plan:

Open Space & Recreation	\$123,986.00
Roads and Traffic Facilities	\$23,783.00
Community Facilities	\$14,685.00
Public Domain Facilities	\$32,906.00
Plan administration & Management	\$1,769.00

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

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

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

- 2.2. The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 2.3. The land scape plans shall be amended to reflect the Stormwater plans. No mulch or floating materials shall be proposed within the OSD basin.

- 2.4. Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.

2.5. Tree Removal: On-Site

Approval is granted for the removal of the following trees:

- Any tree/s where the base of the trunk of the tree is located within 3 metres of the external wall of an approved dwelling;
- Any declared noxious plant. The applicant, builder and all contractors are to ensure that all noxious plants are properly identified, controlled and/or removed on this site without injury or death of any protected plants;

All vegetation, trees and shrubs on-site are approved for removal.

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by Council's Tree Management Order, is to be retained and protected from construction damage and pruning. The Tree Management Order protects trees over 5m in height.

- 2.6. Before the issue of a construction certificate or, the person having benefit of this Determination Notice is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- a. Council's development control plan,
- b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

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

- 2.7. Before the issue of the relevant construction certificate, the person having benefit of this Determination Notice must submit the following written evidence of service provider requirements to the certifier:

- a. a letter of consent from the relevant electricity provider demonstrating that satisfactory arrangements can be made for the installation and supply of electricity; and
 - b. a response from the relevant water authority as to whether the plans proposed to accompany the application for a construction certificate would affect any the relevant water authority infrastructure, and whether further requirements need to be met; and
 - c. a letter of consent from the relevant telephone and broadband authority demonstrating that satisfactory arrangements can be made for the installation and supply of telephone and internet; and
 - d. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.
- 2.8. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.
- Refer to www.sydneywater.com.au/tapin for Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPINTM.
- Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.
- 2.9. A soil erosion and sediment control plan must be prepared by a suitably qualified professional in accordance with Council's Demolition and Construction Guidelines and Development Engineering Standards and submitted to the certifier for approval prior to the issue of a construction certificate.
- 2.10. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.11. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](http://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 2.12. The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a) Heavy duty VFC of maximum width of 5.5 metres at the property boundary.
 - b) Connection to Council stormwater pipe located within the site.

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

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The person having benefit of this Determination Notice should make application and payment for the Work Permit at least twenty-one (21) days prior to the information being required and prior to the issue of the Construction Certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's

- 2.13. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 2.14. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking and Council's development control plan.
- 2.15. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
 - a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the Principal Certifier prior to the issue of the construction certificate.
 - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 2.16. An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 2.17. The development is to be carried out in accordance with the commitments shown in the BASIX Certificate. The BASIX commitments approved with the development application are to be reflected in the construction certificate plans and specifications.
- 2.18. 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 Bankstown Development Engineering Standards. 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 Bankstown Development Engineering Standards. The Engineer shall certify that the design and plans comply with Council's Bankstown Development Engineering Standards and the relevant Australian Standards.

Drawing Number	Revision	Date	Prepared By
1478-S1/3	L	14.07.2022	John Romanous & Associates
1478-S2/3	L	14.07.2022	John Romanous & Associates
1478-S3/3	K	15.12.2021	John Romanous & Associates

2.19. Storm water Management: General Tree Protection

The applicant is to amend their Storm Water Plan prior to the issue of the Construction Certificate to protect the root systems of all retained and protected trees/vegetation on and adjacent to the site. These amendments shall include, but not be limited to, the following:

- The placement of all pipes within the building footprint. The pipes are to be suspended above ground.
- The placement of all pipes and pits outside the designated Tree Protection Zone of those trees to be retained.
- If the pipes are required to be located within the Tree Protection Zone, they should not encroach into the designated Structural Root Zone, and shall be installed by directional drilling or in manually excavated trenches. In this regard no roots over 25mm in diameter are to be cut or damaged.
- Works within the Tree Protection Zone shall comply with section 4.5.5 of Australian Standard AS 4970-2009 Protection of trees on development sites.

- The use of appropriate notation on the amended design drawings and specifications demonstrating full compliance with the conditions of the development consent and the issues raised above.
- 2.20. A flood risk management report and plan shall be provided to demonstrate how the underground basement will be protected from flooding up to the 1% AEP flood level. The construction certificate documentation shall comply with the report recommendation.
- 2.21. All structural members must be designed to withstand flood impact loads and scouring around structural members, particularly footings supporting the building.
- 2.22. A service protection report shall be prepared by a suitable qualified plumber to locate Council pipe located at the rear of the site. No structures shall be constructed over the pipe without Council approval.
- 2.23. Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). The Plan is required to be submitted to Council six months prior to the commencement of works on the site, for both demolition and construction phases of the development / project. This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

- a. Proposed ingress and egress points for vehicles to and from the construction site;
- b. Proposed protection of pedestrians, adjacent to the constructions site;
- c. Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d. Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e. Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f. Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours.

If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods** 8:00am - 9:30am and 2:30pm - 4:00pm on school days.

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition, an RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

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

This plan shall include details of the following:

- a. Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b. Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c. Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d. Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.

- e. Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

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

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

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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

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

2.26. Sites located adjacent to Council's drainage easement and/or sites affected by flooding shall comply with the following:

- a) The proposed building(s) including eaves and gutters shall be located clear of existing and proposed Council easements within the site. Amended plans to this effect shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. All approved construction details shall be consistent with this requirement. Proposed buildings shall be located clear of floodways through the site.
- b) Concrete pier and beam type footings shall be provided for all structures adjacent to Council's stormwater pipe/easement in accordance with the requirements contained in Council's Bankstown Development Engineering Standards. Plans and details prepared by a qualified practising Structural Engineer, with details suitable for construction in accordance with the above Policy shall be incorporated into the details for approval of the Construction Certificate. A copy of the approved details together with a report prepared by a registered surveyor showing location, size and depth of the stormwater system, shall be sent to Council for information.
- c) Landscaping within Council's drainage easement shall be limited to grassed or paved surfaces only. Boundary fencing across Council's drainage easement floodway shall incorporate provision for the passage of overland stormwater runoff to cater for the 1:100 year A.R.I. storm. All approved construction details shall be consistent with this requirement. A copy of the approved landscaping details shall be submitted to Council for information.
- d) For concrete pavements built over drainage easements full depth construction joints shall be provided along the easement boundary, in accordance with the requirements contained in Council's Bankstown Development Engineering Standards. Details suitable for construction prepared by a qualified professional Civil Engineer shall be submitted to the PCA prior to the issue of the Construction Certificate. A copy of the approved details shall be submitted to Council for information.

Note: Council's standard floodway sign shall be erected on the site adjoining the floodway.

- 2.27. 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 Bankstown Development Engineering Standards. 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 the issue of any construction certificate. The engineer must certify that the hydraulic design complies with the above relevant standards.
- 2.28. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 2.29. For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 2.30. The basement of the development is located adjacent to a Council Public Road Reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's Public Road.
- 2.31. The intersection of ramps with parking aisles and other intersection areas have been designed for use by one vehicle at a time. Appropriate traffic management measures, including redesign if needed, is required to prioritise one-way traffic movement at these intersection areas. The design shall be completed and certified by a suitably qualified professional engineer.
- 2.32. Communal Bin Storage Room Construction Combined with Bulky Waste Storage

The Certifier must not issue any Construction certificate unless provided with detailed plans that form part of the CC for the communal bin storage room identified on Plans titled *"27-31 SIR JOSEPH BANKS ST Ground floor plan 24/07/2022, Issue E"* that comply with the requirements of the Council's *"Waste Management Guide for New Developments"* including, without limiting the foregoing, compliance with the following requirements:

- a) Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- b) Floors must be finished so as to be non-slip with a smooth and even surface;

- c) The room is to be integrated within the building with a minimum 2.1m unobstructed room height in accordance with the Building Code of Australia;
- d) Walls must be constructed of solid impervious material;
- e) Ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- f) Walls, ceiling and floors must be finished in a light colour;
- g) An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
- h) A self-closing door openable from within the room;
- i) Must be constructed to prevent the entry of birds and vermin;
- j) Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- k) Any doorways must be 2 metres wide and open outwards;
- l) Designed to a minimum area of 12.5m x 5m and to fit:
 - i. 6 x 1,100L recycling bins;
 - ii. 4 x 1,100L garbage bins; and
 - iii. 2 x 240L garden organic bins.

2.33. Bin Carting Route (Collect and Return Service)

The Certifier must not issue any Construction Certificate unless provided with detailed plans that form part of the CC which identify that the bin carting route from the communal bin storage room identified on Plans titled "*27-31 SIR JOSEPH BANKS ST Ground floor plan 24/07/2022 Issue E*" to the kerb complies with the requirements of the Council's "*Waste Management Guide for New Developments*" including, without limiting the foregoing, compliance with the following requirements:

- a) Is direct and less than 10 metres in length,
- b) Has a minimum width of 2m of hard surface;
- c) Is of non-slip material and free from obstacles and steps;
- d) Is not located within a driveway or carpark;
- e) Has a maximum grade of 1:30 (3%); and
- f) Has a layback installed at the collection point.

2.34. The Applicant is to fund the installation of a timed "Loading Zone" signage that can be shared with the waste night No Parking on Sir Joseph Banks Street subject to approval from Council's Traffic Committee and concurrence from Council's Waste Services.

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

2.36. An Arboricultural Impact Assessment is to be submitted as supporting documentation with a development application involving tree removal and / or tree protection and must comply with Australian Standard® AS 4970-2009 Protection of trees on development sites, and include the following information:

- Name, address and contact details, ABN and qualifications and experience of the arborist carrying out the inspection and preparing the report;
- The purpose of the report (the Brief) and the name, address and contact details of who commissioned the report;
- Address of the property where the trees are located;
- The owner of the property where the trees are located;
- Consideration of all relevant planning laws, regulations and planning instruments pertaining to the property;
- The date the site inspection was undertaken;
- The scope of the inspection and details of the methodology used in the assessment;
- Survey data for the subject trees – including, but not limited to, the scientific and common names; height and crown spread; DBH; approximate age of the tree; the health and condition of the tree; any pests, diseases or structural defects; and the retention value of the trees;
- A plan of the site at no smaller than 1:100 scale showing the location of the subject trees, clearly identify trees to be removed and retained. The trees are to be individually numbered to correspond with the report;
- Consideration of all aspects proposed above and below ground works;
- The Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of all the trees on the site, including those indicated for removal, must also be clearly marked on the site plan;
- Details of any tree root mapping exercise, if required;
- Wildlife habitats, nesting hollows, shelter sites, and similar;
- Supporting documentation where relevant to the aim of the report;
- Photographs of the trees for identification purposes and to illustrate issues discussed in the report;
- A detailed consideration of the management options available to the applicant, including development redesign;
- Design and construction methods to minimise impacts on retained trees;
- Tree protection measures and plan;
- Proposed replacement tree planting options should the development entail the removal of trees from the site.

(Note to user: can include additional requirements depending on the circumstances)

2.37. The applicant shall engage a qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - to prepare a Tree Management Program for the development site. All trees to be retained and protected, and trees located on

adjoining properties within 5m of the subject property boundary, are to be covered by this Tree Management Program.

The report shall generally comply with Section 2.3.5 of Australian Standard AS 4970-2009 Protection of trees on development sites and Section 8.6 of the Bankstown City Council Tree Management Manual.

The details of this Tree Management Program are to be site specific and should include, but are not limited to, the following issues:

- Tree Management Procedures that include;
- Record keeping and documentation
- Monitoring and control
- Conflict resolution
- Project Implementation
- General tree protection procedures
- General tree care procedures
- Specific tree care and protection procedures (for each tree if necessary)
- Ongoing maintenance procedures
- Tree pruning and removal procedures.

The report is to be completed prior to the issue of the Construction Certificate.

- 2.38. Prior to the issue of a Construction Certificate, a dilapidation survey must be undertaken by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 for the adjoining properties at 19-25 Sir Joseph Banks Street, Bankstown and 33-35 Sir Joseph Banks Street, Bankstown and is to detail the physical condition of all structures (including driveways, retaining walls, and other outdoor structures such as carports, pergolas, awnings, etc), both internally and externally, including such elements as walls, ceilings, roofs, structural members and other similar elements. The dilapidation survey must consider structural as well as hydrological and geotechnical factors likely to arise from the development.

It must be submitted to the Principal Certifier and all costs associated with preparing the survey must be borne by the person having the benefit of this Determination Notice. This survey must be provided in hard copy to the relevant adjoining strata owner prior to the issue of a Construction Certificate.

- 2.39. Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the property boundary with the street.
- 2.40. All hydrant boosters and associated services and shield walls are to be contained within cabinets and / or designed to match the appearance of the main structure of the development.

3. Conditions to be Satisfied Before Construction.

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

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

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,
 - b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
 - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
 - d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
 - ii. notified the principal certifier of the appointment, and
 - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
 - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 3.3. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —
- a. In the case of work for which a principal contractor is required to be appointed—

- i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act,
- b. In the case of work to be done by an owner-builder—
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

- 3.4. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.
- 3.5. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 3.6. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 3.7. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.8. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application can be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.

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

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

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

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

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

- 3.11. Written notice must be given to adjoining residents seven (7) days prior to the commencement of demolition advising of the commencement date.

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

The following inspections must be undertaken by Council:

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

Payment of an inspection fee at Council's current rate will be required prior to inspection. Council requires 48 hours notice to carryout inspection.

Prior to demolition work, a sign must be erected at the front of the property with the demolishers name, licence number and contact phone number.

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

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

Where asbestos containing materials are to be removed, demolition is to be carried out by contractors who have a current SafeWork NSW licence in asbestos removal.

An asbestos clearance certificate issued under the Work Health and Safety Act 2011 must be submitted to Council after the completion of demolition work.

Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority.

Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

A copy of the final demolition inspection report is to be submitted to the principal certifier prior to the commencement of building work.

3.12. Protective Fencing: Inspection

Council is to inspect all protective fencing and compliance with the conditions of consent prior to the commencement of demolition, site clearing works or building work. Additional inspections may be carried out without prior notice throughout the construction period.

4. Conditions to be Satisfied During Construction.

- 4.1. Building work must be carried out in accordance with the requirements of the BCA.
- 4.2. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
 - a. 7.00 am and 5.00 pm on Monday to Saturday.
 - b. No construction is to be carried out at any time on a Sunday or a public holiday.

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

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

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

- 4.3. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 4.4. An identification report by a registered surveyor must be submitted to the principal certifier prior to the ground floor slab being poured to verify the buildings wall setback and floor level conform to the approved plans.
- 4.5. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 4.6. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
 - a. All footings/ foundations
 - b. At other stages of construction – any marks that are required by the principal certifier.
- 4.7. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 4.8. If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 4.9. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
 - b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- 4.10. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense:
- a. Protect and support the building, structure or work from possible damage from the excavation, and
 - b. Where necessary, underpin the building, structure or work to prevent any such damage.
- This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
- 4.11. All boundary fencing behind the building line shall be replaced by a 1.8m high lapped and capped timber or sheet metal fence, or as stipulated in a flood study prepared for the site, or as determined in consultation with the adjoining property owners at the developer's expense. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 4.12. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.13. Any redundant driveways along the site frontage are to be removed, kerb and gutter and verge to be restored to match other existing areas by the Applicant at their cost.
- 4.14. The wastewater from the car wash bay shall be collected and disposed of, in accordance with the requirements contained in Council's Development Engineering Standards.

- 4.15. All building components must be built from flood compatible material up the flood planning level. And all electrical wiring and related items must be located higher than the flood planning level.
- 4.16. The requirements of the approved WMP shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:
- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*
 - b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*
 - c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW
 - d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it
 - e) Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.
 - f) All materials and resources that are to be stored on site during construction works are contained on the site;
 - g) The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses;
 - h) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

4.17. Tree Removal: Nature Strip

Approval is granted for the removal of the following trees:

- 1x *Callistemon viminalis* (Weeping bottlebrush)
- Located on the nature strip forward of the site,
- The tree removal works are subject to the following conditions:

- All tree removal works must be carried out by a qualified arborist - minimum qualification Australian Qualification Framework (AQF) Level 3 or equivalent;
- The tree removal contractor must hold a Public Liability Insurance Certificate of Currency with a minimum indemnity of \$20 million, together with a NSW Workers Compensation Insurance Certificate of Currency;
- The tree removal work shall comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and the Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016);
- The tree stump is to be ground to 300mm below ground level. Investigation to locate underground services shall be the responsibility of the applicant.
- All tree material shall be removed from site, and the nature strip shall be backfilled, compacted and restored to the original level.
- The site must be maintained in a safe condition at all times;
- Appropriate hazard signage to be in place at all times during the tree works.

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

4.18. Trees on adjoining properties: Pruning / Removal

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

4.19. Trees on adjoining properties: Protection Measures

The following tree/s shall be retained and protected from removal and damage for the duration of the development as identified on the plan titled 'Landscape Plan', prepared by Zenith Landscape Designs, Sheet 3 of 3, dated 08.12.2021, Rev F.

Tree Species & Number.	Location: Sir Joseph Banks Street.	Protection Zones*
No.11 Eucalyptus Sideroxylon (Ironbark)	No.33-35	TPZ 10.8mt SRZ 3.5mt
No.12 = Corymbia maculata (Spotted gum)	No.33-35	TPZ 4.8mt SRZ 2.5mt
No.16 = Eucalyptus Sideroxylon (Ironbark)	No.33-35	TPZ 6mt SRZ 2.7mt
No.18 = Eucalyptus sp.	No.19-25	TPZ 2.4mt SRZ 1.7mt
No.19 Eucalyptus sp.	No. 19-25	TPZ 2.4mt SRZ 1.7mt

No. 20 Melaleuca sp. (Paperbark)	No.19-25	TPZ 2mt SRZ 1.7mt
No.21 Syzigium sp. (Lilli pilli)	No.19-25	TPZ 2.4mt SRZ 1.7mt
No.24 Eucalyptus Scoparia (White gum)	No.19-25	TPZ 4.8mt SRZ 2.5mt
No.26 Eucalyptus Scoparia (White gum)	No.19-25	TPZ 4.8mt SRZ 3mt

- The tree/s to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
- All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.
- No vehicular access, excavations for construction or installation of services shall be carried out within the Tree Protection Zone.
- All utility services, pipes, stormwater lines and pits shall be located outside the Tree Protection Zone.
- Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the Tree Protection Zone.
- Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.
- If tree roots are exposed during approved works, roots with a diameter less than 25mm are to be pruned cleanly using sharp hand tools and not torn or ripped by machinery. Tree roots greater than 25mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken. If necessary, changes in design or relocation of works may be required.
- Root mapping is to be undertaken on (subject tree/s) within (specify location to be mapped). All work shall incorporate the recommendations following the root mapping.
- No ripping or rotary hoeing within the Tree Protection Zone of trees to be retained is permitted.
- Any approved excavation within the Tree Protection Zone of protected trees must be carried out by hand under the care and control of a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent - to avoid unnecessary damage to tree roots.
- Footings for the proposed dwelling area shall be pier and beam, with a minimum void of 150mm between the underside of the floor and the existing natural ground surface.
- Excavation for the footings shall be carried out by hand. No tree roots greater than 25mm in diameter are to be severed. Should tree roots greater than 25mm in diameter be located, the piers are to be relocated accordingly;

- Excavation for the footings of the proposed dwelling shall be carried out by hand within a 2metre radius of the tree, with any tree roots exposed to be cut cleanly;
- The stormwater line and associated pits are to be located no closer than 2 metres from the tree. Alternatively, the stormwater line is to be installed by careful digging using hand tools or horizontal boring and passing the pipe beneath existing tree roots within 2 metre radius of the tree. No tree roots greater than 25mm in diameter are to be severed.

4.20. Compliance with AS4373 – 2007 and AS4970 – 2009

All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites. Site specific conditions relating to tree protection shall take precedence over this requirement.

4.21. Tree Preservation Conflicts

If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.

4.22. A qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 Diploma of Horticulture (Arboriculture) and/or equivalent experience - shall be retained and regularly consulted throughout all demolition, clearing and construction work to ensure protection of the trees retained and compliance of all work with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites.

4.23. Permeable Paving

Tree planting in the car park areas shall incorporate the use of structural soil cells – or similar – and porous paving to manufacturer's specification in the adjacent car parking spaces to facilitate tree root growth and ongoing passive irrigation.

The vehicle driveway and car parking bays shall be constructed of permeable paving (such as Ecotrihex® or equivalent) installed to manufacturer's specification to improve passive irrigation of the trees and allow for gaseous interchange. This will enhance long term tree viability and contribute to Water Sensitive Urban Designs (WSUD) outcomes.

4.24. Boundary Fencing and Retaining Walls: Tree protection

The applicant is to ensure, that all fencing and retaining walls located on a property boundary and constructed within the Tree Protection Zone of any tree or protected vegetation on private property and Council owned or managed land, including nature strip trees, does not result in the damage or cutting of roots 25mm or greater in diameter. Trunks and branches are not to be cut, damaged, or used for supports.

Should tree roots, trunks and branches be encountered, posts and footings are to be relocated. Masonry fences and walls are to use discontinuous footings within the drip line of such trees and vegetation to bridge over tree roots and to provide sufficient clearance to ensure healthy plant growth, maintain plant stability, and prevent any damage to the structure occurring.

4.25. Utility Services: Underground

Underground services should use common trenches outside the Tree Protection Zone. If services need to be run within the Tree Protection Zone then all utility pipes and similar are to be installed using appropriate directional boring techniques. No tree roots are to be severed or damaged during this work.

4.26. Utility Services: Overhead General

The applicant shall ensure all overhead electrical wires between the power pole and approved structures are located outside the crowns of existing trees and in accordance with the clearances specified by the energy authority. The overhead wires are also to be located to avoid future conflict with any trees planted in accordance with the development consent.

4.27. Post Construction Management: Leaf Barriers

The applicant is to install an effective Leaf Barrier to all gutters to collect falling leaves and debris to reduce potential conflicts between trees and building maintenance issues.

5. Conditions to be Satisfied Before Occupation.

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.3. Consolidation of the existing allotments must be registered by NSW Land Registry Services prior to the issue of an occupation certificate.

- 5.4. Landscaping is to be installed in accordance with the approved landscape plan(s). All works and methods nominated, and materials specified on the approved landscape plan(s) are to be completed prior to the issue of an Occupation Certificate. The landscaping plan shall be maintained for the life of the development.

5.5. Tree Planting: Nature Strip

The applicant is to plant the following replacement tree/s on the nature strip forward of the property. The tree/s shall have a container size not less than 75 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use, and be planted and maintained in accordance with Councils street tree planting specifications Standard Drawing No. S-201 or S-202. Tree planting as per landscape design plan by Zenith Landscape designs.

- 5.6. An identification report by a registered surveyor must be submitted to the principal certifier to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.

- 5.7. Prior to the issue of any Occupation Certificate a design verification from a qualified designer shall be submitted to the Principal Certifying Authority. The design verification is a statement in which the qualified designer verifies that the development has been constructed as shown in the plans and specifications in respect of which the Construction Certificate was issued, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.

- 5.8. Prior to the issue of an occupation certificate, evidence is to be submitted to Council demonstrating that a restriction has been registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the following requirements are met:

- a) For 10 years from the date of the issue of the occupation certificate, Six (6) units specifically comprising Units 11; 13; 14; 18; 22 & 25 must be used for the purpose of affordable housing, and each of these units must be managed by a registered community housing provider.

- 5.9. Thirty-eight (38) off street car spaces being provided in accordance with the submitted plans. This shall comprise:

Thirty-three (33) residential spaces; and
Five (5) visitor spaces

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

- 5.10. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.
- 5.11. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 5.12. The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

- 5.13. Sites located adjacent to Council's drainage easement and affected by flooding shall comply with the following:
- a) A Work As Executed Plan prepared by a registered surveyor, together with certification from a qualified professional Civil Engineer of the capacity and adequacy of the existing flow path shall be obtained prior to issue of the certificate of occupation or occupation of the site.
 - b) The Work As Executed information shall be shown on a copy of the approved plans and shall include construction information relating to the following:
 - (i) All relevant natural ground and finish ground levels within the flow path and relevant surrounding levels.
 - c) A Restriction as to User under the provision of Section 88E of the Conveyancing Act shall be registered on the title of the subject property, requiring that:
 - (i) "A flow path for overland stormwater runoff, from upstream properties and Council's Public Road shall be maintained within the rear yard of the subject site."

- (ii) "No trees or shrubs shall be planted within the rear yard of the subject site"
- (iii) "Changes to approved levels and/or the construction of walls and landscaping within the overflow path is not permitted unless approved by Council".
- (iv) "Any fencing constructed across the floodway or overland flow path shall be maintained to allow for the free passage of surface flow of stormwater to the satisfaction of Council".

Note: The location of the "Flowpath" shall be shown on the film plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the flow path shall be included on a site plan attached to the Section 88E instrument.

- d) Canterbury-Bankstown City Council shall be empowered to release, vary or modify such Restriction.
 - e) The Restriction and Positive Covenant shall be registered on title prior to issue of the Occupation Certificate or occupation of the site. Evidence of such registration shall be submitted to Council.
- 5.14. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

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

- 5.16. The dwellings/buildings must be readily identified from the street with the allocated house numbers. An official "house numbering" letter is issued to the person having benefit of this Determination Notice indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.
- 5.17. Before the issue of an occupation certificate, the person having the benefit of this Determination Notice must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

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

5.19. Council Inspection – Waste Management Facilities

No occupation certificate may be issued until such time as written confirmation has been received from Council that all waste management facilities and associated access have been constructed in accordance with the requirements of this consent.

- 5.20. Waste Collection Agreement with Council – collect and return or on-site collection

Prior to the issue of any Occupation Certificate, an agreement must be entered with Council on terms satisfactory to Council for the collection of waste.

5.21. No Parking Sign

The applicant is to seek approval from the appropriate authority for the installation of a "No parking on waste collection days" (or similar) sign at the kerbside collection point at the front of the development on Sir Joseph Banks Street.

- 5.22. The following signs must be provided and maintained within the site at the point(s) of vehicle egress:

- a. Compelling drivers to stop before proceeding onto the public way
- b. Compelling drivers to "*Give Way to Pedestrians*" before crossing the footway; or compelling drivers to "*Give Way to Pedestrians and Bicycles*" before crossing a footway on an existing or identified shared path route.

6. Conditions of Use

6.1. Post Construction Management: Views and Structures

Consent will not be granted for the pruning or removal of any protected (existing or replacement) tree or vegetation due to any of the following;

- Maintenance or enhancement of views
- Damage to minor or ancillary structures (including driveways and fences)
- The dropping of leaves, fruit, bark and minor branches
- The obscuring of advertising signage.

6.2. During occupation and ongoing use of the building, the person having the benefit of this Determination Notice must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).

6.3. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

6.4. During occupation and ongoing use of the building, the person having the benefit of this Determination Notice must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).

-END-

Canterbury Bankstown Local Planning Panel - 05 September 2022

ITEM 2	DA-412/2022 - 5 Wallace Avenue, Hurlstone Park
	Alterations and Additions to existing dwelling including single storey rear extension. Demolition of existing carport and shed, and construction of a garage.
FILE	DA-412/2022 – Budjar / Canterbury
ZONING	R2 – Low Density Residential
DATE OF LODGEMENT	2 June 2022
APPLICANT	Christopher Kakavelis
OWNERS	Angelina Kakavelis
	Christopher Kakavelis
ESTIMATED VALUE	\$245,000.00
AUTHOR	Jeremy Swan, The Planning Hub – Independent Town Planning Consultant

REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel ('the Panel') in accordance with Schedule 2 of the Ministerial Direction "Local Planning Panel Directions – Development Applications" issued under section 9.1 of the Environmental Planning and Assessment Act, 1979. The subject application is defined as an application involving a "conflict of interest" as the applicant and landowner is a relative of a member of council staff who is principally involved in the exercise of council's function under the Environmental Planning and Assessment Act 1979. The application also involves the partial demolition on a heritage item.

Development Application No. DA-412/2022 proposes alterations and additions to the rear of an existing dwelling house including a single storey rear extension. Works also include the demolition of an existing carport and shed and construction of a garage and associated works at 5 Wallace Avenue, Hurlstone Park.

The site is listed as heritage item I193 Federation House and sits within the Duntroon Street Heritage Conservation Area pursuant to the CLEP 2012.

The application has been referred to Council's Heritage Advisor reviewed the application and raised no objections to the proposal. The following comments were provided:

- *The proposed works at the subject site are modest in size and scale and seek to retain the significant elements and features that make up the character of the dwelling. The works are appropriately located to the rear with work undertaken to areas of lesser significance that are in poor condition.*
- *The main roof form is retained as part of this application and no work is proposed to the front of the dwelling. The single storey presentation of the dwelling to the street is retained by way of extending the rear skillion roof form and existing side setbacks are also maintained.*
- *The new garage is appropriately located in the rear yard and is of a simple utilitarian form that complements the character of the main dwelling.*
- *Having regard to the comments above the proposed works are not considered to have an adverse impact on the character and significance of the dwelling or its contribution to the Duntroon Street HCA and so are supported from a heritage point of view.*

DA-412/2022 has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979 requiring, amongst other things, an assessment against State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan (CLEP) 2012 and Canterbury Development Control Plan (CDCP) 2012. The application was assessed against Parts B and C1 of the CDCP and fails to comply with clause B1.4.8 regarding the minimum required width of 2.7m for dwelling house driveways providing access from the street to the rear yard. The non-compliance is worthy of Council's support as the existing setback to the heritage listed dwelling house is 2.2m.

The application was advertised/notified for a period of days. objection was received during this period, which raises concerns relating to A merit assessment has been undertaken of the rear garage noting Council's development engineer's comments and on balance the proposed works are supported because the garage is replacing an existing carport that has always had side driveway access. Simply put the proposed garage is replacing an existing carport in about the same location.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial impact.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-412/2022 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is commonly known as 5 Wallace Avenue, Hurlstone Park and is legally described as Lot 21 DP 7566. The site is a regular allotment that is currently zoned R2 Low density Residential. The site has an area of approximately 426.5m² and a frontage of 12.19m to Wallace Avenue.

The site contains a single storey detached dwelling and associated structures including covered carport and sheds. The site is listed as heritage item I193 Federation House and sits within the Duntroon Street Heritage Conservation Area pursuant to the CLEP 2012.

The site is located within the Hurlstone Park locality and surrounding development generally consists of existing low to medium density residential development.

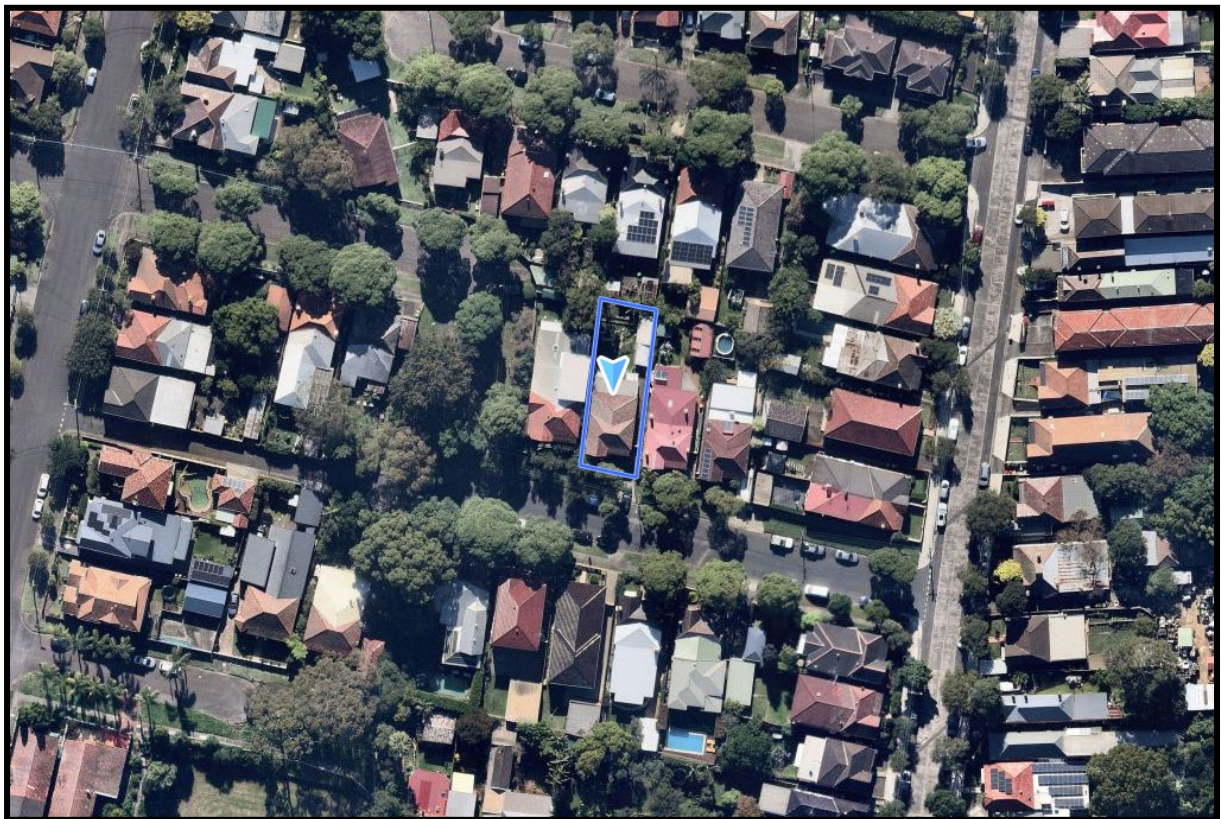


Figure 1: Aerial of subject site in blue. **Source:** NearMaps 2022

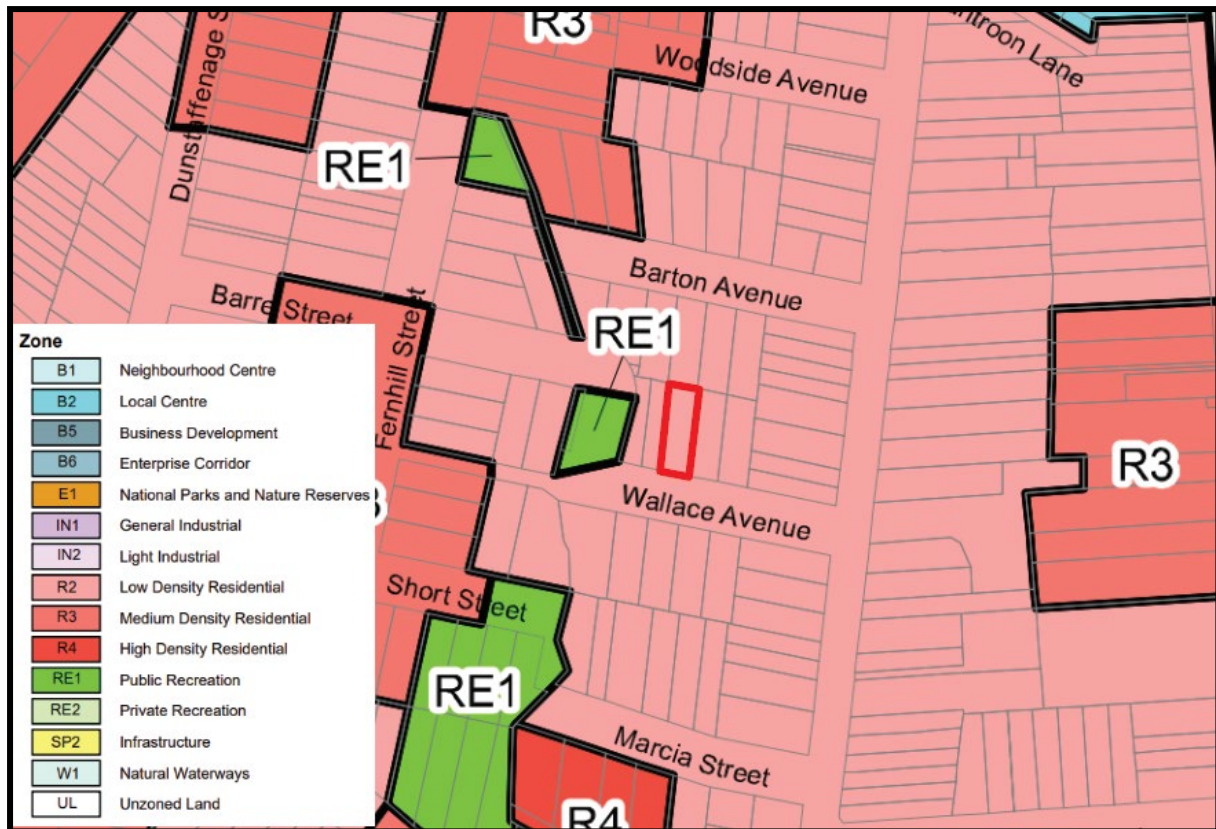


Figure 2: Zoning Map

PROPOSED DEVELOPMENT

The Development Application proposes alterations and additions to the rear of the dwelling. Specifically, the works include:

- The demolition of an existing rear carport and shed structure.
- The demolition of the rear veranda, rear veranda storage area and part of the rear wall of the dwelling.
- The construction of new rear extension to consist of a new kitchen.
- The construction a new outdoor alfresco that adjoins proposed rear extension.
- The provision of a laundry within the existing kitchen; and
- The construction of a new detached single garage to the rear.

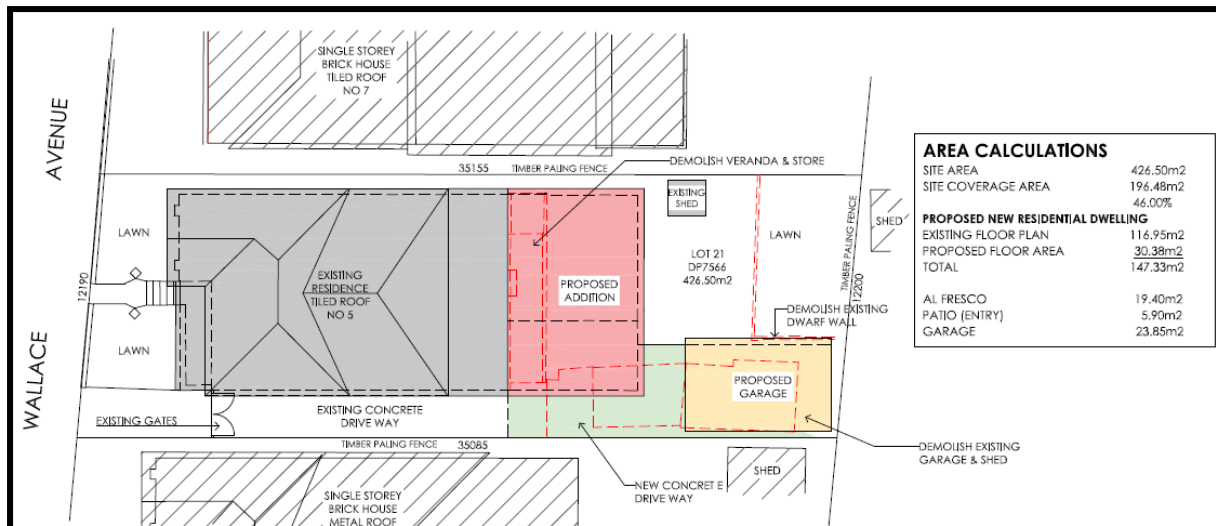


Figure 3: Site Plan. Source: GN Design

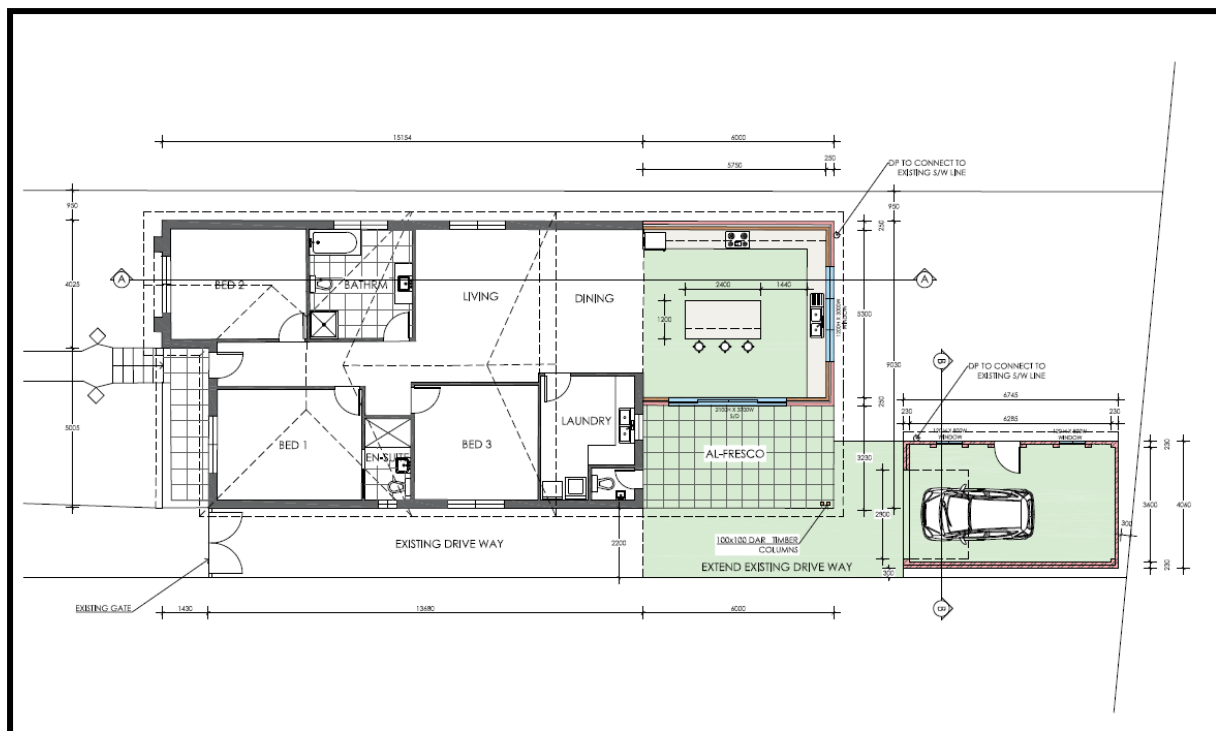


Figure 4: Ground Floor Plan. Source: GN Design

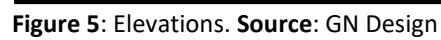




Figure 7: View from Wallace Avenue



Figure 8: Rear view of Existing Dwelling



Figure 9: View of Existing Carport

Statutory Considerations

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

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *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 (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Chapter 4 of the 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 only been used for residential purposes for an extended period of time and is not located within an investigation area. Given that the site has been used for only residential purposes, the site is considered to be suitable for the intended use and is therefore consistent with State Environmental Planning Policy (Resilience and Hazards) 2021.

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

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

In accordance with BASIX SEPP, a BASIX Certificate accompanies this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been

shown on the plans in order to satisfy objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

Canterbury Local Environmental Plan 2012

The following clauses of the Canterbury Local Environmental Plan 2012 were taken into consideration:

Clause 1.2 – Aims of Plan

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.7 - Demolition requires development consent

Clause 4.3 – Height of buildings

Clause 4.4 – Floor Space Ratio

Clause 5.10 – Heritage conservation

Clause 6.2 – Earthworks

Clause 6.4 – Stormwater management

Clause 6.6 - Essential services

CLEP 2012		
Clause	Requirement/Provision	Comment
1.2 Aims of Plan	This Plan aims to make local environmental planning provisions for land in Canterbury in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.	The proposal has been assessed as being consistent with all relevant aims of the CLEP 2012.
2.2 Zoning of land to which Plan applies	For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.	The zoning of the land is specified within the land zoning map as R2 Low Density Residential.
2.3 Zone objectives and Land Use Table	The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone	The proposal has been assessed as being consistent with the objectives of the zone. Alterations and additions to a dwelling house is permitted with consent.
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition is proposed under this development application.
4.3 Height of buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	The proposed additions do not exceed the prescribed 8.5m maximum building height standard.
4.4 Floor space ratio	Despite subclause (2), the maximum floor space ratio for a building that is a dwelling house, or a semi-detached dwelling is as follows—	

	(b) 0.55:1—if the site area is at least 200 square metres, but less than 600 square metres.	Proposed 0.34:1 complies with the maximum of 0.55:1.
5.10 Heritage conservation	To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,	<p>The site is listed as heritage item I193 Federation House and sits within the Duntroon Street Heritage Conservation Area.</p> <p>The application was referred to Council Heritage Advisor who raised no objections and specifically detailed the following:</p> <ul style="list-style-type: none"> <i>The proposed works are not considered to have an adverse impact on the character and significance of the dwelling or its contribution to the Duntroon Street HCA and so are supported from a heritage point of view.</i>
6.2 – Earthworks	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The works are minor and unlikely to have an adverse impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
6.6 Essential services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required	The proposed additions are capable of being services by the required essential services. It is noted that provisions currently exist on site.

An assessment of the Development Application revealed that the proposal complies with the matters raised in each of the above clauses of Canterbury Local Environmental Plan 2012.

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

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. The Draft CBLEP 2020 has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft CBLEP 2020 provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With respect to the proposed development, the proposal is considered to be consistent with the aims and provisions of the draft instrument (being identical to the provisions contained in the current applicable local environmental plan).

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

The following table provides a summary of the development application against the controls contained in *Part D, G, Part I, and J of the Canterbury Development Control Plan 2012*.

Canterbury Development Control Plan 2012			
STANDARD	REQUIRED	Proposed	Y/N
Part B General Controls			
Part B1 Transport and Parking			
B1.2 Transport and Parking Requirements			
B1.2.3 General Parking Provisions	2 spaces per dwelling	A 1 space detached garage is proposed under this development application. The site is capable of providing an additional space in a stacked arrangements behind the building line.	Y
B1.4 Design of Parking Facilities	Stack parking is permitted for single dwelling houses, dual occupancies and semi-detached dwellings where two parking spaces are required for one dwelling.	The site is capable of providing an additional space in stacked arrangements.	Y
	Where above ground parking is the only solution possible, locate to the rear of buildings.	The proposed detached garage is located to the rear of the dwelling and is therefore acceptable.	Y
	Use perforated paving materials (for example, paving units with wide bands of gravel aggregates) that allow infiltration of stormwater Avoid car parking areas and access driveways characterised by large expanse of bare concrete.	Minor alterations are proposed to the existing concrete driveway. The proposed additions are generally consistent to existing provisions and are therefore considered to be acceptable.	Y
B1.4.8 Parking Requirements for Specific Land Uses	The maximum width of residential vehicular crossings is 5.5m subject to compliance with Council's Vehicular Crossing Policy.	Alterations are not proposed to the existing cross over.	Y

	All residential developments are to locate driveways to the side of the site, and within the side setback.	Alterations are not proposed to the location of the existing driveway sited within the side setback. Minor extensions works are proposed towards the rear.	Considered Acceptable
	If driveway access for a dwelling house, dual occupancy and semi-detached dwelling, is provided from the street to the rear yard, the minimum dimension from the wall of the dwelling to the side boundary is 2.7m.	It is noted that the existing setback of the wall is 2.2m. Alterations are not proposed to the existing driveway that adjoins the dwelling. Minor extension works are proposed to the rear. The issue of the driveway and proposed garage is discussed further in this report.	Merit assessed
	On a site that is less than 12.5m wide, provide parking in a carport, or a single width garage and add a carport if additional covered parking is necessary. Parking for a dwelling house, dual occupancy, semi-detached dwelling, multi dwelling housing and attached dwellings, is to be provided in a single width carport or garage.	A single width garage is proposed to the rear.	Y
	Garages and carports must be setback at least 1m behind the outermost alignment of external walls, verandas or balconies On sites that rise from the street frontage, one garage that is not wider than 6m and no higher than 3m above street level.	As above. A single width garage is proposed to the rear.	Y

Part B2 Landscaping			
B2.3.1 Existing Vegetation and Features	New landscaping is to complement the existing street landscaping and improve the quality of the streetscape.	A landscape plan accompanies this development application. Alterations are not proposed to landscaping front of the building line.	N/A
	All development, including alterations and additions, is to minimise earthworks (cut and fill) in order to conserve site soil. Where excavation is necessary, the reuse of excavated soil on site is encouraged.	Earthworks have been minimised where applicable and contained only to reinforced concrete slabs and footing associated with the proposed rear addition and the detached garage.	Y
	An erosion and sediment control plan is required to ensure that soil erosion (and potential sedimentation of waterways) is minimised and managed.	An erosions and sediments control plan accompanied the development application. Councils Development engineers reviewed the application and raised no objection subject to conditions provided in Attachment B.	Y
Part B3 Tree Preservation			
B3.2 Tree Works Requiring Council Approval	If a tree or other vegetation is, or forms part of, a Heritage Item, or is within a heritage conservation area, then development consent for any tree works is required.	Tree works or removal is not proposed.	Y
B5 Stormwater and Flood Management			
B5.2 Submission Requirements	A detailed stormwater drainage plan is to be lodged with all DA's (except change of use applications) to illustrate how stormwater runoff from the site will be managed.	Councils' development engineer requested a stormwater management plan. It is considered this can be conditioned and is included in the proposed draft conditions.	Condition
B5.13 Areas Subject to Possible Flooding	Council may require a flood study be undertaken and submitted with the development application, where flood studies have not previously been undertaken for areas adjacent to water courses.	The subject site is not flood prone or adjacent a water course. A flood study is considered unnecessary.	Y

Part B6 Energy and water conservation			
B6.2 Passive Energy Design			
B6.1 General Objectives	Contains controls relating to shading and glare, insulation and thermal mass, ventilation and active energy	<p>Windows and openings within the addition are sited towards the north east and north west and are considered appropriately located to reduce summer heat load, maximise sunlight in winter and facilitate natural ventilation. Furthermore, the proposed eaves and alfresco adequately shade openings.</p> <p>Windows and openings with a reflectivity greater than 20% are not proposed.</p> <p>The proposed glazing and insulation has been provided in accordance with BASIX requirements and is therefore considered acceptable.</p> <p>In addition, Heating/cooling systems are not proposed.</p>	Y
B7 Crime Prevention and Safety			
B7.2 All Development Types			
B7.2.1 CPTED Principle: Surveillance	Contains controls relating to surveillance communal and public areas.	The proposed development only relates to a rear extension and detached garage. The proposed development will not create blind or impact on views towards street.	Y
B7.2.2 CPTED Principle: Access Control	Contains controls relating to access control.	The proposed development only relates a to a rear extension and detached garage. The proposed development will not impact on existing access controls.	Y
B7.2.3 CPTED Principle: Territorial Reinforcement	Contains controls relating to Territorial Reinforcement.	Works are contained to the rear of the site and will not impact on the public domain.	Y

B7.3 Additional Provisions for Residential Development			
B7.3.1 CPTED Principle: Surveillance	Allow natural observation from the street to the dwelling, from the dwelling to the street, and between dwellings.	The proposed development does not impact on casual surveillance towards the street.	Y
B7.3.2 CPTED Principle: Access Control	Provide an appropriate level of security for individual dwellings and communal areas	Works are contained to the rear and do not impact on existing measures.	Y
B7.3.3 CPTED Principle: Territorial Reinforcement	Design dwellings and communal areas to provide a sense of ownership.	Works are contained to the rear and do not contribute significantly public domain.	Y
B8 Heritage			
B.8.3 Heritage Items			
8.3.2 External Form and Setting	New work is to be consistent with the setback, massing, form and scale of the heritage item	Works are contained to the rear and do not alter setback, massing, form and scale of the heritage item when viewed from the street.	Y
	Retain significant fabric, features or parts of the heritage item that represent key periods of the item.	All significantly contributing features visible from the public domain are retained.	Y
	Alterations and additions are to be generally located away from original and intact areas of the heritage item.	The proposed works are contained to the rear and do not impact on the significant and intact contributing features of the item.	Y
	Maintain the integrity of the building form (including the roof form and profile) so that the original building is retained and can be clearly discerned, particularly when viewed from the public domain. Avoid changes to significant parts of a place.	Alterations are proposed to the roof of the rear veranda for facilitate the proposed extension. Works are contained to the rear and will not impact on the public domain. As above, works are contained to the rear and do not alter significantly contributing features of the item.	Y

		The application has been reviewed by a heritage consultant and raised no objection to the proposed works.	Y
B8.3.3 Interior Elements	Contain controls relating to changes to internal areas of heritage items.	<p>The proposed extension works are to the rear and do not result in significant changes to internal room configurations, layouts, finishes, entrances, hallways, main rooms, openings and the like.</p> <p>The application has been reviewed by a heritage consultant and raised no objection to the proposed works.</p>	Y
B8.3.4 Roofs, Dormers, chimneys and skylights	<p>Original and significant roof forms, materials, finishes and details to roofs are to be retained.</p> <p>The roof form and detail of the main building and any significant rear wings are to be retained.</p>	<p>Works are only limited to the roof over the rear veranda.</p> <p>As above.</p> <p>The application has been reviewed by a heritage consultant and raised no objection to the proposed works.</p>	<p>Y</p> <p>Y</p>
B8.3.5 Verandahs, Porches and Balconies	Original verandas, porches and balconies (including structure, detail and roofs) are to be retained.	<p>The existing rear veranda is proposed to be demolished to allow for the rear extension.</p> <p>The application has been reviewed by a heritage consultant and raised no objection to the proposed works.</p>	Y
B8.3.6 Driveways, Garages and Carports	<p>Parking is not permitted forward of the building line (within the front garden area) of heritage items.</p> <p>The form, size, detailing and materials of any new car parking structure should complement the existing heritage item and not mimic an earlier style.</p>	<p>Parking in front of the building line is not proposed. A detached garage is proposed to the rear yard via an existing driveway.</p> <p>The proposed detached garage has been designed in a manner that complements the heritage items. The application has been reviewed</p>	<p>Y</p> <p>Y</p>

	Where driveways are permitted, pavement materials should reflect the traditional character of the place.	by a heritage consultant and raised no objection to the proposed works. An extension of the existing driveway is proposed. Therefore, the proposed concrete driveway is considered appropriate in that it is consistent with existing provisions.	Y
B8.3.10 Windows and Doors	Original windows and doors that contribute to the significance or aesthetic qualities of a place are to be retained and conserved.	Alterations are not proposed to existing windows and doors that contribute to the significance or aesthetic qualities of the item.	Y
B8.3.11 Building Materials, Finishes and Colour	Surviving original materials, finishes, textures and details on elevations visible from the public domain are to be retained and conserved. Provide external paint schemes that are characteristic of the style of the building in the use of tone, and palette of colours but not necessarily to be limited to standard traditional colour schemes.	Works are contained to the rear and do not impact existing original materials, finishes, textures and details on elevations visible from the public domain. The proposed external colour schemes are considered appropriate for the style of the building.	Y Y
B8.3.17 Demolition	Full or substantial demolition of a heritage item will not be supported by Council. Demolition of any part of the fabric of a heritage item that contributes to its heritage significance will also not be supported.	Demolition works are minor and only relate to the rear veranda and detached structures. In this instance, works are supportable as they do not impact on the significant contributing features of the dwelling.	Y
B.8.5 Hurlstone Park Heritage Conservation Areas			
B8.5.5 Roofs, Dormers, chimneys and skylights	Original and significant roof forms, materials, finishes and details to roofs are to be retained. The roof form and detail of the main building and any significant rear wings are to be retained.	Alterations are not proposed to significant roof forms, materials, finishes, and details to roofs. Works are contained to the rear and do not impact the form of the roof when viewed from the street. As above, the works do not impact the existing roof form of the primary dwelling. In addition, The subject site does not contain an existing rear wing.	Y Y

	Dormer windows are not permitted to street front elevations or to side elevations visible from the public domain.	Dormer windows are not proposed.	Y
	Original verandahs, porches and balconies (including structure, detail and roofs) are to be retained.	The proposed development involves the demolition of a veranda sited to the rear of the dwelling. The removal of the veranda will not have an adverse impact on the heritage significance of the dwelling and its contribution to the streetscape.	Y
B8.5.7 Driveways, Garages and Carports	Where car access is available to the rear or side of a property, apart from a driveway (where side access is possible), parking is not permitted forward of the building line (within the front garden area).	The proposed development consists of the construction of a detached garage to the rear of the property that is accessed via an existing driveway. Parking is not proposed to the front of the building line.	Y
	No part of an existing building is to be demolished or altered in order to accommodate a garage, carport or car space within the front or side setbacks.	Demolition is not proposed to accommodate the garage.	Y
	The form, size, detailing and materials of any new car parking structure should complement the existing contributory building and not mimic an earlier style.	The form, size, detailing and materials of the proposed garage are considered to be appropriate and complementary to the heritage significance of the building and HCA.	Y
	Car parking structures are not to use high pitched roofs and are not to incorporate attics or lofts.	The application has been reviewed by a heritage consultant and raised no objection to the proposed works.	Y
	Where driveways are permitted, or existing driveways are proposed to be replaced, pavement materials should reflect the traditional character of the area.	The proposed extension to the existing driveway is considered appropriate in that it does not result in large areas of continuous concrete and reflects the traditional character of the area.	Y

B8.5.11 Windows and Doors	Original windows and doors visible from the public domain are to be retained and conserved.	Alterations are not proposed to windows or doors visible from the public domain.	Y
B8.5.12 Building Materials, Finishes and Colour	Surviving original materials, finishes, textures and details on elevations visible from the public domain are to be retained and conserved. New materials, finishes, textures and details on elevations visible from the public domain, must be appropriate to the architectural style of the building.	Alterations are not proposed to original materials, finishes, textures and details visible from the public domain. The proposed alterations and additions are sited to the rear and considered appropriate for the architectural style of the building.	Y Y
B9 Waste Management			
B9.2 Waste Management Plan (Demolition and Construction Phases)	Submit a waste management plan in relation to the waste that will be generated in the demolition and construction phase. The plan identifies how the generation of waste will be minimised, and how recycling and reuse of those wastes will be maximised. (Refer to Appendix 2 for details).	A waste management plan accompanied this development application and is included in the recommended conditions of consent.	Y
Part C General Controls			
C1.2 Site Planning			
C1.2.2 Site Coverage	<p>All development must comply with the numerical requirements contained in the table below:</p> <ul style="list-style-type: none"> - Up to 449m² <ul style="list-style-type: none"> o Maximum areas of building footprint – 300 m² o Maximum floor area of out buildings – 30 m² o Maximum site coverage of all structures on a site - 60% 	<p>The proposed 196.48 m² complies with the maximum of 300 m².</p> <p>Proposed 23.85 m² complies with the minimum of 30 m².</p> <p>The proposed 46% complies with the maximum of 60%.</p>	<p>Y</p> <p>Y</p> <p>Y</p>
C1.2.3 Isolated Sites	<p>Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.</p> <p>The development of existing isolated sites is not to detract from the character of the streetscape.</p>	<p>The proposed works do not result in the neighbouring sites being isolated.</p> <p>The development site is not considered to be isolated.</p>	<p>Y</p> <p>Y</p>

C1.2.4 Landscaping	Deep soil permeable areas must be provided in accordance with the table below: <ul style="list-style-type: none"> - Up to 449m2 <ul style="list-style-type: none"> o 15% 	The proposed 25% complies with the minimum of 15%.	Y
C1.2.5 Layout and Orientation	<p>Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.</p> <p>Site the development to avoid casting shadows onto a neighbouring dwelling's primary living area, private open space and solar cells.</p> <p>Coordinate design for natural ventilation with passive solar design techniques</p>	<p>The proposed rear addition has been sited and designed in a manner that maximises solar access and natural light, without unduly increasing the building's heat load.</p> <p>The proposed works will not result in overshadowing of adjoining properties.</p> <p>Windows and opening are sited in a manner that permit natural ventilation and natural lighting.</p>	<p>Y</p> <p>Y</p> <p>Y</p>
C1.3 Building Envelope			
C1.3.1 Floor Space Ratio	The maximum permissible FSR for any development is prescribed in the LEP.	Refer to LEP compliance table above.	Y
C1.3.2 Height	<p>Development for the purposes of dwelling houses must not exceed the following numerical requirements:</p> <ul style="list-style-type: none"> - A maximum two storey built form. - A maximum external wall height of 8m where the maximum height of building standard under the LEP is 9.5m. - Finished ground floor level is not to exceed 1m above the natural ground level. 	<p>The proposed extension is of a 1 storey form.</p> <p>The subject site has a maximum building height of 8.5m. As such this control does not apply.</p> <p>The finished ground level of the garage and rear extension does not exceed 1m from natural ground level.</p>	<p>Y</p> <p>Y</p> <p>Y</p>

	<p>Maximum 1m cut below ground level where it will extend beyond an exterior wall of the building.</p> <p>Maximum 600mm fill above ground level where it would extend beyond an exterior wall of a building.</p>	<p>Cut that exceeds 1m below ground level is not proposed within the beyond or within the exterior walls of the building.</p> <p>Fill does not exceed 600mm above ground level.</p>	<p>Y</p> <p>Y</p>
C1.3.3 Setbacks	<p>Development, including basement and sub-floor areas, fronting a major road must have a minimum front setback of 9m.</p> <p>Development must comply with the minimum front, side and rear setbacks as detailed in the following tables:</p> <p>Frontage of 12.5m or less</p> <p>Front Setbacks – frontage of 12.5m or less</p> <ul style="list-style-type: none"> - Minimum setback of 5.5m from the front boundary. <p>Side Setbacks</p> <ul style="list-style-type: none"> - Minimum setback of 900m from side boundaries. - Alterations and additions may be in line with the existing ground level walls <p>Rear Setbacks</p> <ul style="list-style-type: none"> - Minimum setback of 6m from the rear boundary <p>Outbuildings (including alterations and additions)</p> <p>Side Setbacks -</p> <ul style="list-style-type: none"> - External wall height not exceeding 2.7m may encroach into the minimum setback area. 	<p>The subject site does not front a major road.</p> <p>Alterations are not proposed to the existing front setback. Works are contained to the rear.</p> <p>The extension contains a setback of 950mm to the western boundary and complies with the minimum of 900m.</p> <p>The proposed dwelling has a setback greater than the minimum of 6m.</p> <p>The proposed detached garage has a side setback of 230mm and encroaches on the minimum setback of 900mm. The structure contains a wall height of 2.5m and is sited consistently with those of adjoining properties. As such is considered acceptable.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>

	Car parking structures must satisfy BCA requirements.	The proposed car parking structure is capable of complying with relevant BCA requirements.	Y
C1.4 Building Design			
C1.4.1 General Design	Contemporary architectural designs may be acceptable if: <ul style="list-style-type: none"> - A heritage listing does not apply to the existing dwelling or to its immediate neighbours. 	A contemporary built form is not proposed.	Y
	New building forms and design features shall not mimic traditional features, but should reflect these in a contemporary design.	The application has been reviewed by a heritage consultant and raised no objection to the proposed works.	Y
	All dwellings must contain one kitchen and laundry facility.	The proposed extension incorporates a kitchen and facilities new laundry facilities within the primary dwelling.	Y
	Retain and extend prominent elements of the existing roof (such as gables, hips or longitudinal ridges that run parallel to a street boundary).	Alterations are not proposed to the roof of the existing primary dwelling.	Y
	Contemporary roof forms may be acceptable on additions at ground floor level if concealed substantially behind the existing dwelling, and not visible from the street or other public space.	The proposed extension if complemented by a roof that is not visible from a public street.	Y
	Entries to residential buildings must be clearly identifiable.	Alterations are not proposed to building entries including front doors.	Y
	A minimum of one habitable room must be oriented towards the street to promote positive social interaction and community safety.	Alterations are not proposed to habitable room fronting Wallace Avenue.	Y
	Design interiors to be capable of accommodating the range of furniture that is typical for the purpose of each room.	The proposed extension is designed in a manner that is capable of accommodating a range of furniture typical for a kitchen and laundry.	Y

		The primary living area and principal bedroom must have a minimum dimension of 3.5m.	Alterations are not proposed to the primary living area, principal and secondary bedrooms.	Y
		Provide general storage in addition to bedroom wardrobes and kitchen cupboards.	The dwelling will be serviced by existing storage areas.	Y
		Use non-reflective materials, do not randomly mix light and dark coloured bricks, and treat publicly accessible wall surfaces with anti-graffiti coating.	Reflective materials are not proposed. The proposed extension and detached garage use appropriate colours and materials.	Y
		Windows must be rectangular.	Proposed windows are rectangular.	Y
		Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter.	Proposed windows and openings are sited and shaded in a manner that reduce summer heat load and maximise sunlight in winter.	Y
C1.4.2 Design Features	Roof and	Incorporate features to facilitate natural ventilation and convective currents - such as opening windows, high vents and grills, high level ventilation (ridge and roof vents) in conjunction with low-level air intake (windows or vents).	The proposed windows and openings permit natural ventilation and convective currents.	Y
		Use a simple pitched roof that accentuates the shape of exterior walls, and minimises bulk and scale.	<p>The proposed rear addition will not visually increase the bulk and scale of the primary dwelling when viewed from the street.</p> <p>In addition, the proposed garage incorporates a pitched roof structure with a gable finish where visible from the street. The proposed structure responds sympathetically to the dwelling. Furthermore, to the rear it incorporates a roof with a lower pitch to minimise its bulk and scale when viewed from adjoining properties.</p>	Y

C1.5 Amenity	Where site orientation permits at least primary living areas of dwellings must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June.	Primary living areas and private open space of dwellings capable of receiving minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June.	Y
	Dwellings must comply with the following:		
	<ul style="list-style-type: none"> - At least one living room window and at least 50% or 35m² with minimum dimension of 2.5m (whichever is the lesser), of ground level private open space. 	Alterations are not proposed to the existing living room window.	Y
	<ul style="list-style-type: none"> - Receive a minimum of 3 hours sunlight between 8:00 am and 4:00 pm on 21 June. 	The dwelling is capable of receiving a minimum of 3 hours sunlight between 8:00 am and 4:00 pm on 21 June.	Y
	<ul style="list-style-type: none"> - Where existing overshadowing by buildings and fences is already greater than this control, sunlight is not to be reduced by more than 20%. 	The subject site is not affected by overshadowing by buildings and fences.	Y
	Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.	The proposed development will not result in any overshadowing of adjoining properties.	Y
	Windows and openings shall be appropriately located and shaded to reduce summer heat load and maximise sunlight in winter.	The proposed windows and openings are appropriately located and shaded to reduce summer heat load and maximise sunlight in winter.	Y
C1.5.2 Visual Privacy	Locate and orient new development to maximise visual privacy between buildings, on and adjacent to the site.	<p>The proposed works will not result in any visual impacts on adjoining properties. Windows of the proposed kitchen area are sited to the rear and do not result in overlooking into adjoining properties.</p> <p>In addition, no alterations are proposed to the location of</p>	Y

		private open space and/or the orientation of windows of existing living rooms and bedrooms.	
C1.5.3 Acoustic Privacy	Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.	Alterations are not proposed to the location of sensitive rooms, such as bedrooms.	Y
C1.6 Fences and Ancillary Development			
C1.6.2 Outbuildings and Swimming Pools	Development for the purposes of outbuildings must not exceed the following numerical requirements: <ul style="list-style-type: none"> - A maximum height of building of 4.8m for any outbuilding. - A maximum external wall height of 3.5m for any outbuilding 	<p>The proposed garage contains a maximum building height of approximately 3.5m and complies with the minimum of 4.8m.</p> <p>The proposed external wall height of 2.45m complies with the minimum of 3.5m</p>	<p>Y</p> <p>Y</p>

Garage and Rear Driveway Access

Concerns have been raised by Council's development engineer in respect of the rear garage and driveway access. Their opinion is that the proposed garage at the rear is not feasible due to the narrow access and reversing out of the garage.

It is noted that Council's DCP (clause B1.4.8, C7) requires that if driveway access for a dwelling house is provided to the rear of the site the minimum dimension from the wall of the dwelling to the side boundary is to be 2.7m. The existing driveway providing access to the existing carport in the rear yard is 2.2m from the wall of the dwelling to the side boundary.

Comment – It is considered that the proposed garage and access arrangements are considered acceptable for the following reasons:

- The driveway is existing and currently provides access to a carport in the rear with similar arrangements.
- The proposed garage is a better planning outcome than the existing carport as it replaces a rundown structure with a new garage that as described by the heritage consultant is *"appropriately located in the rear yard and is of a simple utilitarian form that complements the character of the main dwelling."*
- The proposed garage ensures that car parking is provided for the dwelling in a location that is subordinate to the main dwelling.
- The proposed garage will not have an adverse impact on the heritage item or heritage conservation area.

- If the application was not to proceed the applicant would continue to have driveway access and parking at the rear.

On merit, the proposed carport is supported.

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 considered likely to result in any significant environmental, social or economic impacts on the locality. As detailed in this report, the development complies with the applicable requirements and in review is considered worthy of support. As such, it is considered that the impact of the proposed development on the locality will be acceptable.

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

The site is considered suitable for the proposed development. The proposed development will not detract from the heritage significance of the site and is therefore considered suitable.

Submissions [section 4.15(1)(d)]

The application was advertised/notified for a period of 14 days from 23 June 2022 to 7 July 2022. 1 objection was received during this period which raised concerns relating to the sewer line to the rear of the property. A response to the various issues raised is provided below.

Submission: Resident wanted Council to be aware there is an existing sewer line at the rear of the property.

Response: The application was referred to council development engineers who raised no objections to the subject to the development application based on their consideration of the sewer line. In addition, a condition has been imposed requiring a Section 73 certificate from Sydney Water prior to the issue of a construction certificate.

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

Approval of the proposed development is not considered to contravene the public interest as it does not result in any adverse impacts on adjoining properties in terms of views, solar access and the like. Additionally, the proposed development has been designed in a manner that allows the heritage item to maintain a positive contribution heritage significance of the surrounding area.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979 requiring, amongst other things, an assessment against State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan (CLEP) 2012 and Canterbury Development Control Plan (CDCP) 2012.

It is considered that the conditions placed on the determination notice ensure that an acceptable form of development is permitted and that impacts of adjoining properties can be appropriately mitigated and where necessary managed.

SCHEDULE 1 – CONDITIONS

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

1. Approved Development.

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

Plan No.	Plan Name	Issue	Prepared By
NP 01	Site & Location Plans	APR22	GN Design
NP 02	Elevations	APR22	
DA.234.03	Proposed Floor Plan	APR22	GN Design
DA.234.05	Sections	APR22	
DA.234.06	Erosions and Sediment Control Plan	APR22	
DA.234.08	Demolition Plan	APR22	
DA.234.09	Landscape Plan	APR22	
A457873	BASIX Certificate	APR22	
-	Waste Management Plan	April 2022	-

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

- 1.1 Alterations to, and demolition of, the existing building shall be limited to that documented on the approved plans (by way of notation) or conditioned in this consent. No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

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

- 2.1. A soil erosion and sediment control plan must be prepared by a suitably qualified professional in accordance with Council's Demolition and Construction Guidelines and Development Engineering Standards and submitted to the certifier for approval prior to the issue of a construction certificate.
- 2.2. The Council approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

- 2.3. A long service levy payment which is 0.35% of the total cost of the building work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 2.4. The development is to be carried out in accordance with the commitments shown in the BASIX Certificate. The BASIX commitments approved with the development application are to be reflected in the construction certificate plans and specifications.
- 2.5. A certificate from a professional engineer certifying the structural capacity of the existing building will be appropriate to the building's proposed new use or is capable of supporting the loads imposed by the new structure must be provided to the certifier prior to the issue of a construction certificate.
- 2.6. A Stormwater management plan shall be prepared by a suitably qualified engineer and be prepared in accordance with Council's DCP part B5 and Council's applicable engineering specification prior to the issue of a construction certificate.
- 2.7. The colours and materials of the proposed works shall match the existing colours and materials of the existing dwelling.
- 2.8. Development Contributions of **\$2,450** must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Canterbury Development Contributions Plan 2013 and Section 7.12 of the Environmental Planning and Assessment Act 1979. The contributions will be used to provide, extend or augment public amenities or public services.

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

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

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

3. Conditions to be Satisfied Before Construction.

- 3.1. The building work in accordance with the development consent must not be commenced until:
- a) a construction certificate for the building work has been issued by the council or certifier, and
 - b) the person having benefit of the development consent has:
 - i. appointed a principal certifier for the building work, and
 - ii. notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case, and
 - c) the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifier of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building work.

Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.

- 3.2. Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 3.3. A compliance certificate must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. An assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

A section 73 Compliance Certificate must be completed before an occupation certificate will be issued. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

- 3.4. Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

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

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

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

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

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

- 3.8. Written notice must be given to adjoining residents seven (7) days prior to the commencement of demolition advising of the commencement date.

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

The following inspections must be undertaken by Council:

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

Payment of an inspection fee at Council's current rate will be required prior to inspection. Council requires 48 hours' notice to carryout inspection.

Prior to demolition work, a sign must be erected at the front of the property with the demolishers name, licence number and contact phone number.

Demolition work may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no demolition work is to be carried out at any time on a Sunday or a public holiday. All demolition work must be carried out in accordance with Australian Standard 2601-2001 - The demolition of structures.

Where asbestos containing materials are to be removed, demolition is to be carried out by contractors who have a current SafeWork NSW licence in asbestos removal. An asbestos clearance certificate issued under the Work Health and Safety Act 2011 must be submitted to Council after the completion of demolition work. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority.

Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

A copy of the final demolition inspection report is to be submitted to the principal certifier prior to the commencement of building work.

4. Conditions to be Satisfied During Construction.

- 4.1. Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 4.2. The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 4.3. An identification report by a registered surveyor must be submitted to the principal certifier prior to the ground floor slab being poured to verify the buildings wall setback and floor level conform to the approved plans.
- 4.4. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 4.5. If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 4.6. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 4.7. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.

5. Conditions to be Satisfied Before Occupation

- 5.1. An identification report by a registered surveyor must be submitted to the principal certifier to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 5.2. Prior to the issue of a Final Occupation Certificate, the commitments listed in the BASIX Certificate are to be installed in the development.
- 5.3. The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.

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