



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

5 December 2022 - 6:00PM

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

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

DARANI / BANKSTOWN WARD

- 1** **DA-1047/2021 - 15, 17 & 19 Leonard Street, Bankstown**
- Demolition of existing structures, removal of three site trees and one street tree, and construction of a six storey residential flat building containing 30 residential apartments with two levels of basement parking. 3
- 2** **DA-762/2022 - 74 Rickard Road, Bankstown**
- Building identification signs for the Western Sydney University (WSU) Bankstown City Campus, including four large WSU logo and branding signs located on the facades of the building, and nine smaller signs located at various entry points to the building. 53

BUDJAR / CANTERBURY WARD

- 3** **DA-596/2021 - 680 New Canterbury Road, Hurlstone Park**
- Demolition of the existing building and the construction of a four storey shop top housing development of 14 residential units and one commercial unit over two levels of basement parking with proposed subdivision into two lots, for the purpose of land dedication for the widening of Wattle Lane. 71
- 4** **DA-402/2022 - 68 Undercliffe Road, Earlwood**
- Alterations and additions to an existing single-storey dwelling inclusive of part basement area, ground floor addition to the forward portion of the dwelling, and an in-ground swimming pool. 137

Canterbury Bankstown Local Planning Panel - 05 December 2022

ITEM 1	DA-1047/2021 - 15, 17 & 19 Leonard Street, Bankstown
	Demolition of existing structures, removal of three site trees and one street tree, and construction of a six storey residential flat building containing 30 residential apartments with two levels of basement parking.
FILE	DA-1047/2021 – Darani / Bankstown
ZONING	R4 High Density Residential
DATE OF LODGEMENT	13 December 2021
APPLICANT	D.R. Design (NSW) Pty Ltd
OWNERS	UFN (Maroubra) Pty Ltd
ESTIMATED VALUE	\$10,467,914
AUTHOR	Planning

REPORT

This matter is reported to Council's Local Planning Panel in accordance with the Local Planning Panels Direction made by the Minister of Planning and Public Spaces. In line with this order, the Canterbury-Bankstown Local Planning Panel (LPP) is required to determine applications involving development to which the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is four or more storeys in height. The proposed development under DA-1047/2021 meets this criterion therefore this matter is being report to the LPP for determination.

Development Application No. DA-1047/2021 proposes the *'demolition of existing structures, removal of three site trees and one street tree, and construction of a six storey residential flat building containing 30 residential apartments with two levels of basement parking'*.

The Development Application has been assessed against the Section 4.15 of the *Environmental Planning and Assessment Act 1979* including the relevant State Environmental Planning Policies, the Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. The proposal is generally compliant with the expectation of the side setback and substation location.

The application was advertised for a period of 21 days from 19 January 2022 to 8 February 2022 in accordance with Council's Community Participation Plan. Two objections were received during this period, which raised concerns relating to: site isolation, the adjoining driveway and bin storage.

POLICY IMPACT

The proposed development will not have any direct policy impacts.

FINANCIAL IMPACT

The proposed development will not have any direct financial impacts.

RECOMMENDATION

It is recommended that the application be approved on a deferred commencement basis subject to the attached conditions.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-1047/2021 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site consists of three traditional rectangular shaped allotments consisting of Lot 2, DP 411898, and Lots 1 & 2, DP 314339 also known as 15, 17 & 19 Leonard Street, Bankstown. The development site has a total area of 1517.7m² (by title) and a total frontage length of 30.18 metres.

Located on the western side of Leonard Street, the development site is currently zoned R4 High Density Residential, with a maximum permitted Height of Building (HOB) of 19 metres and a maximum permitted Floor Space Ratio (FSR) of 1.75:1 under the Bankstown Local Environmental Plan 2015 (BLEP 2015).

The site is located within the high-density residential fringe to the south of Bankstown Central Business District (CBD). This is an area in transition which consists of a mix of 6-7 storey residential flat buildings, single storey cottages and a small number of multi dwelling housing developments.

Existing development on the site includes three residential cottages (one on each existing allotment) and associated improvements such as a detached fibro garage, metal carport, metal shed and front fences.

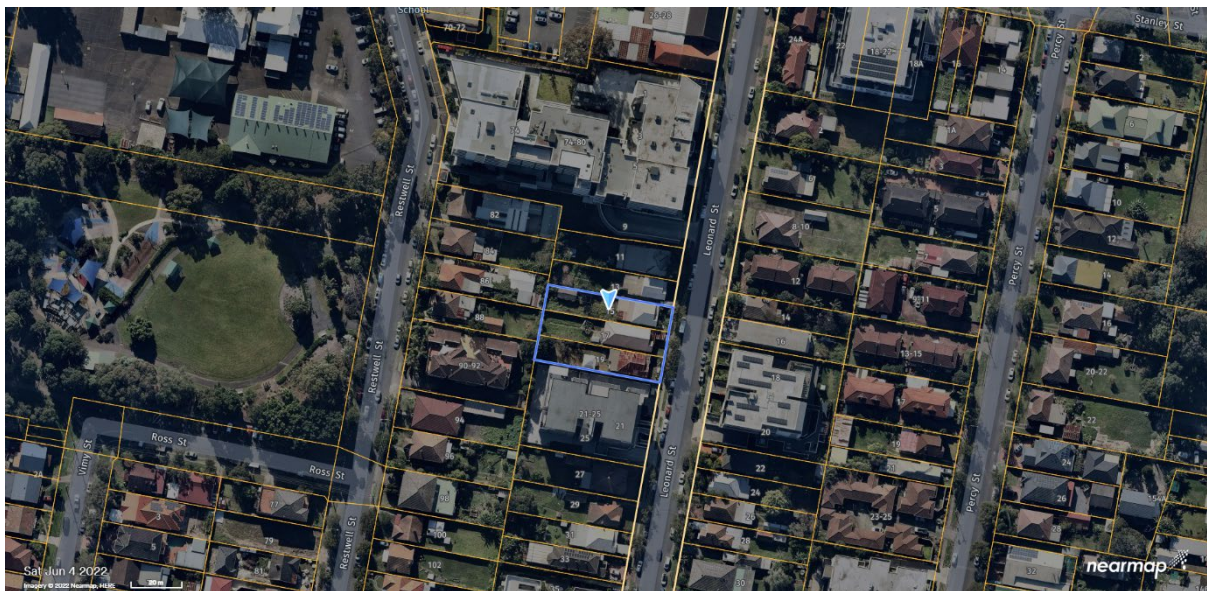


Figure 1: Aerial of subject site in blue. **Source:** NearMaps 2022

PROPOSED DEVELOPMENT

The Development Application proposes the following:

- *Demolition of existing structures on site;*
- *Removal of three site trees and one street tree;*
- *Construction of a six storey residential flat building containing 30 apartments;*

- *Two levels of basement car parking; and*
- *Associated landscape works.*

The specifics of the development are as follows:

Floor	Description
Basement Level 2	Twenty-five (25) car spaces (marked 1 to 25), four (4) bicycle spaces, twelve (12) storage lockers located within two (2) storage rooms, eight (8) storage cages provided at the rear of car parking spaces marked 7-14, five (5) storage cages provided between car spaces (marked 21-25), internal stairway access and lift access.
Basement Level 1	Eighteen (18) car spaces (marked 1-18), seven (7) bicycle spaces, eight (8) storage cages provided at the rear of the car parking spaces (marked 7-14), bulk waste room/tug storage, switch room, pump room, internal stairway access, external stairway access, internal lift access.
Ground Floor	Four (4) units including associated terraces, entry lobby, lift access, communal open space, waste room, service cabinets stairway access to basement and internal stairway access.
Level 01	Six (6) units including associated balconies, service cabinets, lift access and internal stairway.
Level 02	Six (6) units including associated balconies, service cabinets, lift access and internal stairway.
Level 03	Six (6) units including associated balconies, service cabinets, lift access and internal stairway.
Level 04	Four (4) units including associated balconies, service cabinets, lift access and internal stairway
Level 05	Four (4) units including associated balconies, service cabinets, lift access and internal stairway

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 this application, the relevant matters listed in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

- State Environmental Planning Policy no 65 – Design Quality for Residential Apartment Development and the associated Apartment Design Guide
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Bankstown Development Control Plan 2015 (BDCP 2015)

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 11 of this SEPP requires Council to consider the ‘general principles’ as set out by Clause 11.6. The proposal is not considered to result in a negative impact to the Georges River and its tributaries (the catchment) as the stormwater runoff from the site is managed via onsite collection that will be subsequently disposed of via an easement through a downstream property into Council’s stormwater management system.

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

In accordance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP), a BASIX Certificate accompanied this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy the objectives and requirements of the SEPP. Where required, the BASIX Certificate requirements have been incorporated into the recommended conditions of consent.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. Clause 4.6 of this 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, the consent authority must be satisfied the land is suitable for its proposed use or that the land will be remediated before the land is used for that purpose.

A review of the history of the development site including a review of Council’s historical records, aerial photography and a physical inspection of the site concludes the subject sites have only been used for residential purposes. No concerns are raised that the site has been used for a listed purpose. Council is satisfied the site is suitable for continued residential use and the demolition of the existing structure on site are to be carried out in accordance with the appropriate conditions to ensure any asbestos or potential contaminants are managed and disposed of offsite.

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

The proposed development involves works within 5m of an overhead electricity power line, works adjacent to an existing substation and requires the installation of a new substation for the purpose of this development. In accordance with Clause 2.48(2) of this SEPP, a referral to the electricity supply authority for the area was required.

Ausgrid have assessed the plans lodged in support of the application and advise that they consent to the proposed development subject to conditions relating to certain matters including the supply of electricity to the site, infrastructure installation, and managing any impacts on existing electricity network assets. The full set of conditions contained in Ausgrid's advice is included in the recommended conditions of consent.

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 three or more storeys and contain at least four or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

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 2001 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) (b) and (c) of the SEPP. This includes the design quality principles as verified the submitted Design Verification Statement and the Apartment Design Guide as summaries in the below table.

Apartment Design Guide

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development										
Criteria		Requirement		Provided	Complies					
Part 3 Siting the Development										
3B-2 Overshadowing	Overshadowing of neighbouring properties is minimised during mid-winter. Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access		27 of the adjoining 38 units (71%) retain a minimum of 2 hours direct solar access at No. 21-25 Leonard Street Bankstown. Afternoon sun to the adjoining communal open space remains.							
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 primarily along the rear (north-western) setback and connects to the smaller areas along the side setbacks, to the northern and southern side of the site. These areas are suitable locations and achieve long-term solar access. 390m ² of open space for a site area of 1,521.9m ² = 25.6% communal open space. The proposed open space achieves compliant solar access with in excess of 190m ² of area located at the north-western section 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>Greater than 1,500 m²</td><td>6m</td><td>7%</td></tr></table>	Site Area	Minimum Dimension	Deep Soil %	Greater than 1,500 m ²	6m	7%		A minimum 106.24m ² of deep soil area is required for the site with a 6m minimum dimension. 218.28 m ² has been provided.	Y
Site Area	Minimum Dimension	Deep Soil %								
Greater than 1,500 m ²	6m	7%								
3F-1 Visual Privacy	<table><tr><td colspan="3">between windows and balconies is provided to ensure visual privacy is achieved.</td></tr><tr><td>Building</td><td>Habitable</td><td>Non-</td></tr></table>	between windows and balconies is provided to ensure visual privacy is achieved.			Building	Habitable	Non-		Separation up to 12m (4 storeys, Ground, Level 1-3) Required: 6m habitable rooms and balconies, 3m to non-habitable rooms.	N
between windows and balconies is provided to ensure visual privacy is achieved.										
Building	Habitable	Non-								

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development				
Criteria	Requirement			Provided
	Height	Rooms & Balconies	habitable Rooms	
	Up to 12m	6m	3m	Building setback to the North – Minimum 6m to living room and bedrooms. Complies.
	Up to 25m	9m	4.5m	Building setback to the South – Minimum 6m to living room and bedroom. Complies.
				Building setback to the West – Minimum 7.59m to living room and bedroom. Complies.
				Separation up to 25m (5 & 6 storey, Levels 5-6)
				Required: 9m habitable rooms and balconies, 4.5m to non-habitable rooms.
				Building setback to the North – Minimum 6m provided to bedrooms with 1.9m high sill highlight window. While the required 9m setback is not achieved, the north facing window from these bedrooms have been designed to ensure no visual privacy impacts with an increased sill height. 9m provided to living room and other bedrooms.
				Building setback to the South – Minimum 7.1m provided to bedrooms with 1.9m high sill highlight window. While the required 9m setback is not achieved, the windows in these bedrooms have been designed to ensure no visual privacy impacts with an increased sill height. 9m to other bedroom and living room windows.
				Building setback to the West –

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development					
Criteria		Requirement		Provided	Complies
				Minimum 9m provided to living room of Units 4.03 and 5.03.	
3J-1 Bicycle and Car Parking		Car parking is provided based on proximity to public transport in Metropolitan Sydney and centres in regional areas. 0.6 space per 1 bed 0.9 space per 2 bed 1.4 spaces per 3+ bed 1 space per 5 units (visitor parking) 1 x 1 bed apartments = 0.6 space 24 x 2 bed apartments = 21.6 spaces 5 x 3 bed apartments = 7 spaces Total spaces required = 29 spaces required for the residences 6 spaces required for visitors. 35 spaces required in total		Total spaces proposed = 43 spaces provided.	Y
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.		21 of the 30 units (70%) achieve two-hour solar access minimums per the ADG. 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 76.6% compliance (23 of 30 units).	Y
4C-1 Ceiling Heights		Habitable Room	2.7m	Ceiling heights are suitable for habitable and non-habitable rooms, with a minimum of 2.9 metres provided.	Y
		Non-habitable	2.4m		
4D-1 Apartment Size and Layout		1-bed	50m ²	All apartments have 2 bathrooms (except for Apartment G0.1)	Y
		2-bed	70m ²		
		3-bed	90m ²		

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development																				
Criteria		Requirement		Provided	Complies															
		Additional bathrooms (i.e. more than 1) increase the minimum internal area by 5m ²		24 x 2 bed apartments are each required to have a min area of 75m ² = the smallest apartment is 75.6m ² 5 x 3 bed apartments are each required to have a min area of 95m ² = the smallest apartment is 95.8m ² The only 1 bed apartment proposed is required to be 50m ² it is proposed to be 51m ² .																
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. 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 throughout 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 the 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><tr><td colspan="3">Ground level private open space must have a minimum area of 15m² and a minimum depth of 3m</td></tr></table>		Studio	4m ²	-	1-bed	8m ²	2m	2-bed	10m ²	2m	3+bed	12m ²	2.4m	Ground level private open space must have a minimum area of 15m ² and a minimum depth of 3m			All units comply with minimum areas and minimum depths required for ground floor and upper-floor balconies except for unit G.01. This unit provides for a ground floor courtyard that exceeds the minimum 15m ² requirement (30m ² total) but has an internal depth of 2.9m taken from the balustrade to	Y
Studio	4m ²	-																		
1-bed	8m ²	2m																		
2-bed	10m ²	2m																		
3+bed	12m ²	2.4m																		
Ground level private open space must have a minimum area of 15m ² and a minimum depth of 3m																				

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development											
Criteria		Requirement		Provided	Complies						
				the building wall. A condition of consent will be imposed to extend this space an additional 100mm to ensure compliance (3m).							
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 has been satisfactorily dimensioned. One central circulation core provided on each floor level Maximum 6 apartments access lift per floor	Y						
4G-1 Storage		<table><tr><td>1-bed</td><td>6m³</td></tr><tr><td>2-bed</td><td>8m³</td></tr><tr><td>3+bed</td><td>10m³</td></tr></table>		1-bed	6m ³	2-bed	8m ³	3+bed	10m 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						

Bankstown Local Environmental Plan 2015 (BLEP 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 4.1B – Minimum lot sizes and special provisions for certain dwelling

Clause 4.3 – Height of buildings

Clause 4.4 – Floor Space Ratio

Clause 5.6 – Architectural roof features

Clause 6.1 – Acid sulfate soils

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 proposal complies with the relevant aims of this Plan with regard to the provision of a range of housing opportunities with good urban design and the concentration of high-density development in areas accessible to transport.

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.*

The development provides for a mix of apartment sizes and configurations to contribute to the housing needs of the community.

Clause 2.7 – Demolition requires development consent

The proposal seeks consent for the demolition of the three existing cottages across the three allotments and any associated site structures. These works form part of this assessment and are of minor environmental impact subject to the recommended conditions of consent.

Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings

Clause 4.1B of BLEP 2015 sets Council's allotment size and width requirements for development. A minimum area of 1,500m² and an allotment width (at the front building line) of 30 metres is required for residential flat building developments within the R4 – High Density Residential Zone.

The development site consists of three existing allotments with a combined area of 1517.7m² and a width of 30.18m at the front building line. This satisfies Council's requirements.

Clause 4.3 - Height of buildings

The proposal complies with the maximum Height of Building (HOB) standard contained in Clause 4.3 of BLEP 2015 of 19 metres. The proposal does contain additional services and infrastructure on the roof such as a lift overrun, fire exhaust duct and a hot water plant. The placement of these services has been well considered and integrate into the architectural roof feature located on the rooftop. This feature is permitted to extend beyond the 19 metre building height set by BLEP 2015 by virtue of Clause 5.6 (see below).

Clause 4.4 - Floor space ratio

In accordance with the BLEP 2015 Floor Space Ratio Map, the maximum permitted floor space ratio for the subject site is 1.75:1. The proposed FSR for the development is 1.71:1 and is therefore compliant with the maximum permitted floor space ratio for this development.

Clause 5.6 – Architectural roof features

This clause allows minor architectural roof features to exceed the maximum height of building set out by Clause 4.3 of BLEP 2015. In deciding whether to grant development consent to such elements of the development, Council must be satisfied that:

- (a) *the architectural roof feature—*
 - (i) *comprises a decorative element on the uppermost portion of a building, and*
 - (ii) *is not an advertising structure, and*
 - (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
 - (iv) *will cause minimal overshadowing, and*
- (b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

The roof feature is considered to provide architectural interest to the roof line of the proposed RFB. This element sits at the centre of the roof and integrates the lift overrun and other services required to be located on the rooftop. The location and design are not considered to result in any adverse overshadowing on the neighbouring developments. No roof is proposed over the enclosed section of the feature thus the space is not habitable. A condition of consent is recommended to reinforce this space is to remain open.

Clause 6.1 – Acid sulfate soils

This Clause seeks to ensure development does not disturb, expose and drain acid sulfate and cause environmental damage. The subject site is identified as Class 5, acid sulfate soils by the endorsed maps of Clause 6.1, BLEP 2015. The Clause directs the consent authority to ensure *‘works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land’*. The subject site is located

approximate 310 metres from land identified as class 4 but the works proposed is not considered to impact beyond the subject development site.

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 involves excavation works to accommodate two levels of basement car parking. The extent of the excavation is considered appropriate and acceptable. It is not considered these works will have any detrimental impact on the physical or natural environment nor will it have any impact on neighbouring residential uses or surrounding land uses. No cultural or heritage items have been identified within the proximity of the development site. A condition of consent is recommended that a dilapidation report addressing the adjoining properties to the north, south and west be prepared and circulated to the relevant property owners.

Proposed 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 consistent with the draft provisions.

Development control plans [section 4.15(1)(a)(iii)]**Bankstown Development Control Plan 2015 (BDCP 2015)**

The following table provides a summary of the development application against the relevant provisions contained within Part B1, B5 and B13 of the Bankstown Development Control Plan 2015.

Bankstown Development Control Plan 2015 Part B1 Section 9 Residential Flat Buildings								
Clause	Requirement		Comment	Complies				
9.1 Isolation of allotments	The consent authority must not grant consent to any development on land within Zone R4 High Density Residential if the proposed development will have the effect of isolating land with an area of less than 1,200m ² and a width of less than 20 metres at the front building line so as to preclude the reasonable development of that land.		<p>Adjoining lots Nos 11 and 13 Leonard Street Bankstown achieve a combined allotment width of 23.45m and an area of 1,143.8m².</p> <p>Although the combined area is less 1200m², the adjoining lots are not isolated by virtue of the fact that the combined allotment width exceeds 20 metres (being 23.45 metres).</p> <p>Notwithstanding the site area is less than 1,200m², permissible development types such as attached dwellings, multi-dwelling housing and boarding houses require 1000m² in site area and a 20m allotment width at the front building line. Both are achieved when combining Nos 11 and 13 Leonard Street.</p>	Y				
9.2 Storey limit	<table><tr><td>Max. Building Height (BLEP)</td><td>Storey Limit (BDCP)</td></tr><tr><td>19m</td><td>6</td></tr></table>	Max. Building Height (BLEP)	Storey Limit (BDCP)	19m	6		A 19-metre permissible building height per BLEP 2015 allows for 6 storeys, with 6 storeys proposed.	Y
Max. Building Height (BLEP)	Storey Limit (BDCP)							
19m	6							
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		No proposed retaining walls higher than existing NGL.	Y				

Bankstown Development Control Plan 2015 Part B1 Section 9 Residential Flat Buildings			
Clause	Requirement	Comment	Complies
	property.		
9.5 Primary and secondary setback restrictions	Min. 6 metre primary road setback.	6 metre primary road setback proposed.	Y
9.10 Setbacks to side and rear boundaries (Basement level)	Minimum 2 metre basement setback to side and rear boundaries.	Minimum 2m and 3m setbacks provided to northern and southern boundaries respectively. 7.2m setback is provided to the rear boundary.	Y
9.11 Setbacks to side and rear boundaries (Driveway)	Minimum 1 metre driveway side setback.	2 metre setback between the driveway edge and the northern property boundary at ground level.	Y
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.	Proposal is under 50 units thus one unit required. G02 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 and are screened from the street. The bin room is included within the building floor plate at the ground floor and bulky waste room is located within the basement. Exhaust ducting and the hot water plant has been designed to be concealed within the architectural roof feature.	Y

Bankstown Development Control Plan 2015 Part B1 Section 9 Residential Flat Buildings			
Clause	Requirement	Comment	Complies
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 in the two basement levels.	Y
9.23 – 9.27 Building Design (substations, utilities and building services).	<p>Substations, utilities and building services are to be integrated into the building design and concealed from public view.</p> <p>Substations must not be located forward of the front building line.</p>	<p>Kiosk substation proposed is located at the front of the development. The current location, design and treatment of the substation is as per the service requirements for the site. Evidence of this has been provided by the applicant.</p> <p>All other services and utilities are incorporated into the design of the proposal and have suitable architectural treatment.</p>	N
9.28 – 9.29 Landscaping	<p>Retain and protect significant trees.</p> <p>A minimum of 45% of the area between the building and the primary frontage is to be landscaped.</p>	<p>Tree removal considered suitable via conditions of consent.</p> <p>Minimum 45% landscaped front setback. Provisions for multiple tree plantings.</p>	Y

Bankstown Development Control Plan 2015 Part B5 Parking			
Clause	Requirement	Comment	Complies
2.1	<p>Parking Rate for RFB:</p> <p>In Zone R4, Zone B1, Zone B2 and Zone B6</p> <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. 	<p>Required:</p> <p>43 car spaces in total including 37 residents' spaces and 6 visitor spaces</p> <p>Proposed:</p> <p>43 car spaces are proposed in total including 6 visitor spaces.</p>	Y

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)]

No planning agreement has been entered into.

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

The proposed development is not inconsistent with the provisions contained within the Environmental Planning and Assessment Regulation, 2021.

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

The proposed development will not result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, despite the minor noncompliance with BDCP 2015 about the location and presentation of the substation, the application is considered worthy of support. As such, it is considered that the impact of the proposed development on the locality is 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 from 19 January 2022 to 8 February 2022. Two objections were received during this period, which raised concerns relating to site isolation, bin location and the loss of an existing driveway.

Objection: The proposed development will result in the isolation of 11-13 Leonard Street Bankstown.

Comment: As outlined in this assessment report, approval of the subject development application will not result in the adjoining allotments of Nos 11 and 13 Leonard Street being isolated. Combined, Nos 11 and 13 Leonard Street would satisfy Council's area and allotment width requirements as set out in Clause 4.1B of the BLEP 2015 for the permissible forms of development of a boarding house, attached dwellings and multi dwelling housing developments.

Objection: The bin location is undesirable.

Comment: The bin arrangement has been revised since the original proposal was lodged with Council and advertised. The applicant has removed the waste storage area / room from the basement with the expectation the bulky waste room and introduced a permanent bin storage room on the ground floor. This location of the bin room on the ground floor satisfies Council's waste service requirements enabling the bins to be collected and serviced directly from this space. The temporary bin storage area that was proposed adjacent to the property boundary is therefore not required and has been deleted from the proposal.

Objection: *The proposed development will impact the vehicle access of 13 Leonard Street Bankstown*

Comment: No. 13 and 15 Leonard Street Bankstown currently utilises a 2.8 metre wide shared driveway straddling the boundary between both allotment for vehicular access. The provision of this driveway has not been supported by any formal legal arrangement such as a share Right of Way. The 1.7-metre-wide portion of the driveway on no. 13 Leonard Street Bankstown is not sufficient in width to enable vehicular access. In the absence of any legal formality, each land owner is entitled to use their respective allotments to the property boundary. This includes the erection of a fence on the property boundary as the site current stands.

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 State Environmental Planning Policy No. 65. As such, approval of the development would be consistent with the wider public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

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.

RECOMMENDATION

It is recommended that the application be approved on a deferred commencement basis subject to the attached conditions.

CONDITIONS OF CONSENT

SCHEDULE 1 - DEFERRED COMMENCEMENT REQUIREMENTS

The following deferred commencement conditions must be complied with to the satisfaction of Council within twelve months of the date of this deferred commencement consent, prior to the issue of an operational development consent:

1. Documentary evidence shall be provided that the subject site is a beneficiary to the existing easement burdening 90-92 Restwell Street, Bankstown up to Restwell Street frontage. Alternatively, the applicant shall negotiate a new easement over the rear site and provide evidence that the easement is legally registered to benefit the subject site.
2. The applicant is to provide detailed design how the stormwater pipe which will occupy the easement will be constructed under the existing retaining wall and how the retaining wall will not affect the structural adequacy of the proposed easement pipe.
3. The easement pipe design shall be revised to consider the levels of the existing easement. The lower side of the retaining wall will affect the minimum depth of cover and minimum fall for the pipe.

SCHEDULE 2 – CONDITIONS

The following conditions of consent including any other conditions that may arise from resolution of matters listed in Schedule 1, will be included in an operational development consent that will be issued by Council after the applicant provides information sufficient to satisfy Council in relation to the condition of the deferred commencement consent.

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

1. Approved Development.

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

Plan Number	Plan Name	Dated	Revision	Prepared By
DA-0-103	Demolition Plan	02/12/2021	B	D.R. Design (NSW) Pty. Ltd.
DA-0-111	Site Plan	01/11/2022	S	
DA-0-210	Basement 2	09/09/2022	T	
DA-0-211	Basement 1	24/10/2022	U	
DA-0-212	Ground Floor Plan	24/10/2022	U	

DA-0-213	Level 1-3 Floor Plan	24/06/2022	R	
DA-0-214	Level 4-5 Floor Plan	24/01/2022	S	
DA-0-215	Roof Plan	01/11/2022	T	
DA-0-301	Elevations	01/11/2022	U	
DA-0-302	Elevations	01/11/2022	U	
DA-0-401	Section AA & CC	01/11/2022	U	
DA-0-402	Section BB & DD	01/11/2022	M	
DA-0-941	External Finishes and Materials	02/12/2021	F	

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

- 1.2 The Acid Sulfate Soil Advice submitted in support of this application prepared by Tetra Tech Coffey Pty Ltd, titled, "Acid Sulfate Soil Advice, 15-19 Leonard Street, Bankstown NSW", dated 8 September 2022, ref: SYDEN304169-L01 Rev2 forms part of this Development Application.

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

- 2.1. Development Contributions of \$392,427 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:

Plan administration and management	\$3,505
Roads and Traffic	\$47,838
Community Facilities	\$29,231
Plan administration	\$65,500
Open Space	\$246,808

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

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

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

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

- 2.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate. Development contribution amounts are non-refundable if you do not proceed with your development.
- 2.3. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. The long Service levy is calculated to be 0.35% of the total cost of the building and construction work. Payment is not required where the value of works is less than \$25,000. Payment can be calculated using the Levy Portal [Calculator at https://longservice.force.com/bci/s/levy-calculator](https://longservice.force.com/bci/s/levy-calculator). Payment must be made via the [Long Service Levy Portal at https://www.longservice.nsw.gov.au](https://www.longservice.nsw.gov.au).
- 2.4. Separate approval must be sought (where required) under the relevant Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height above the proposed development and consequently, may require separate approval under the Regulations. It is advisable that approval to operate equipment (i.e. cranes) be obtained before the issue of any construction certificate.
- 2.5. 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.
- 2.6. Where a boom gate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom (or card controller system) at the car park entry, installed at least 4 metres recessed into the site, when measured from the property boundary with the street. The intercom is to be wired to all units.

The intercom must comply with Australian Standard AS 1428.2: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23.

- 2.7. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

- 2.8. The development must be carried out in accordance with the commitments shown on the submitted BASIX Certificate. The BASIX commitments must be reflected in the construction certificate plans and specifications. Any proposed changes to the BASIX commitments after the construction certificate has been issued will require an updated BASIX Certificate.
- 2.9. Before the issue of the relevant construction certificate, the consent holder 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 of 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.
- 2.10. The building must be designed and constructed to provide access and facilities for people with a physical disability in accordance with the Building Code of Australia.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council through a modification application before a construction certificate being issued.

- 2.11. Before the issue of the relevant construction certificate, the consent holder must ensure a report from a suitably qualified consultant is prepared and demonstrates, to the certifier's satisfaction, that any adaptable dwellings specified in the approved plans or supporting documentation comply with the provisions of AS 4299 – 'Adaptable Housing Standards'.
- 2.12. Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- Council's development control plan,
 - the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
 - the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The consent holder must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 2.13. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Before the issue of a construction certificate and occupation certificate the certifier must:
- Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 2.14. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the

Building and Development Certifiers Regulation 2020 are to be submitted to the certifier before the issue of the construction certificate.

- b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

2.15. 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.

2.16. The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:

- a. A heavy Duty VFC of maximum width of 5.5 metres at the property boundary,
- b. Drainage connection to a new stormwater pit in Restwell Street via a private easement.
- c. Construction of new butterfly pit fronting the easement in Restwell Street.
- d. A concrete footway paving along the site's entire street frontage,
- e. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
- f. Repair of any damage to the public road including the footway occurring during building works, and
- g. 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 consent holder should make application and payment for the Work Permit at least twenty-one (21) days before the information being required and before the issue of the construction certificate. The Work Permit must be approved before any works commencing within the Council Road Reserve or on Council's assets.

2.17. 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 consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the issue of any construction certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

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 consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

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

- 2.18. 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.
- 2.19. Stormwater drainage from the development shall be designed so as to comply with Council's Bankstown Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 that it complies with Council's Bankstown Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

Drawing number	Revision	Date	Prepared By
000, 101, 102, 103, 104, 105, 106, and 107.	Revision C	07.09.2022	Telford Consulting Pty Ltd

- 2.20. 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.
- 2.21. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before the issue of any construction certificate.
- 2.22. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued.

Furthermore, for internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 2.23. 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 a qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the certifier for approval before the issue of a construction certificate.
- 2.24. 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.

- 2.25. Before the issue of any construction certificate for this development, the consent holder must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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

This plan shall include details of the following:

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

The route for transportation to and from the development site of bulk construction and excavation materials shall be by the shortest practical route to the nearest "State Road", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.** The consent holder shall nominate the routes for approval by Council before commencement of any work on the site. All vehicles are to enter the on-street Works Zone adjacent to the site in a forward direction. U-turn and right-turn movements into the site, are generally not permitted.

An Agreement to Council's satisfaction, signed by the consent holder/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site and for local roads along the transportation routes shall be lodged with Council before release of any Construction Certificate. All damage must be rectified upon completion of work.

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 before the commencement of any works on the construction site.

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

Note: Approval by Council of a SPTMP may take up to six months. Accordingly, it is recommended the application to Council be submitted well in advance of the need for a construction certificate.

- 2.26. Before the issue of a construction certificate, the consent holder must ensure a Construction Site Management Plan (CSMP) is prepared before it is provided to and approved by the Certifier. The plan must include the following matters:
- a. location and materials for protective fencing and hoardings to the perimeter on the site;
 - b. provisions for public safety;
 - c. pedestrian and vehicular site access points and construction activity zones;
 - d. details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site;
 - e. protective measures for on-site tree preservation (including in accordance with AS 4970 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable);
 - f. details of any bulk earthworks to be carried out;
 - g. location of site storage areas and sheds;
 - h. equipment used to carry out all works;
 - i. a garbage container with a tight-fitting lid;
 - j. dust, noise and vibration control measures; and
 - k. location of temporary toilets.

The consent holder must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

- 2.27. The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The consent holder shall nominate the route for approval by Council before commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by consent holder specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council before release of any construction certificate. All damage must be rectified before the issue of any occupation certificate.

- 2.28. The consent holder is required to submit to Council the manufacturer's specifications, design and operation of the 'traffic signal' facility to be installed along the driveway access ramp to the basement level. These details shall be illustrated on the plans to be submitted with the construction certificate application. The consent holder shall be responsible for the installation, operation and maintenance of the 'traffic signal' facility at no cost to Council.
- 2.29. Sight triangles are to be marked on relevant plans, being provided at the intersection of the driveway and the property boundary in accordance with AS 2890.1: 'Figure 3.3 – Minimum Sight Lines for Pedestrian Safety'. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. Any structures, plantings or fencing within these triangles is to be a maximum height of 600mm to ensure sight lines are kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.
- 2.30. Before the commencement of any works, all domestic waste bins servicing the site are to be returned to Council.
- 2.31. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
- a. Council's Waste Management Development Control Plan
- 2.32. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate which identify that the bin carting route from the communal bin storage room to the waste collection point identified on stamped plans complies with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":
- a. Is direct and less than 10.0 metres in length,
 - b. Has a minimum width of 2.0 metres 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.
- 2.33. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the communal bin storage room that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":
- 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 design and built-form of the development 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 two metres wide and open outwards; and
- l. Designed to fit the following bin allocations:

Number	Bin Size	Bin Type
7	660L / 1,100L	Garbage (Red)
11	660L / 1,100L	Recycling (Yellow)
2	240L	Garden (Green)

2.34. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the supplementary recycling rooms that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":

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

- k. Any doorways must be two metres wide.
 - l. Designed to a minimum size of 9m².
- 2.35. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the bulky waste storage room that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":
- 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 design and built-form of the development 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; and
 - l. Be the minimum size of as shown on the approved plans (Condition 1.1).
- 2.36. Before the issue of a construction certificate, the certifier is to ensure that all carpark exhaust does not directly vent into private or communal open space.
- 2.37. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Bankstown DCP 2015 and must include the following features, notations and specifications:
- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
 - b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
 - c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), and
 - d. Details of drainage and watering systems (if any).

- 2.38. A site wide landscape management plan is to be submitted to and approved by the certifier before the issue of a construction certificate. The plan is to demonstrate who is responsible for and how the landscape features will be installed and detail the responsibility of ongoing maintenance of the landscaping.
- 2.39. 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.
- 2.40. A construction certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which development consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 2.41. No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall:
- Not be located on awnings or attached to the face of the building,
 - Not be located on roofs in such a way that it is visible from any street, footpath or park,
 - Be visually screened if located 1.8 metres above ground level in other locations, and
 - Wiring shall be fully concealed.
- All construction certificate documentation is to demonstrate compliance with these requirements.
- 2.42. The location of any air-conditioning and hot water units and associated infrastructure must be located to ensure that they are not visible from the street, and that they do not result in a non-compliance with the relevant built form controls and private open space controls contained within the Apartment Design Guide. Confirmation from a suitably qualified architect that the BASIX commitments do not compromise the design guidance as contained within the Apartment Design Guide must be provided to the certifier before the issue of a construction certificate.
- 2.43. 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.
- 2.44. All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.

3. Conditions to be Satisfied Before Construction.

- 3.1. The demolition of all structures on the property must be undertaken in accordance with all the following:
- a. Written notice must be issued to adjoining residents a minimum of seven days before the commencement of demolition advising of the commencement date,
 - b. Written notice must be issued to Council for inspection a minimum of seven days before the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
 - c. Inspections being undertaken by Council including:
 - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before demolition work commencing, and
 - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
 - d. Payment of an inspection fee at Council's current rate must be paid before inspection. Council requires 48 hours' notice to carry out an inspection,
 - e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
 - f. All demolition work must be carried out in accordance with Australian Standard 2601 – 'The Demolition of Structures',
 - g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
 - h. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
 - i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,
 - j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
 - k. Adhere to the requirements stipulated in the approved Waste Management Plan, and
 - l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work.

- 3.2. 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 consent holder.

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

- a. the principal certifier has, no later than two days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
 - b. the principal certifier has, no later than two days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,
 - 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 consent holder, 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 involved, 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 consent holder has given at least a two-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.
- 3.3. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the consent holder apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Section 73 Compliance Certificates, or telephone 13 20 92.
- 3.4. 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 before the commencement of building work/s.

- 3.5. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than 14 days before the commencement of any site or building works.
- 3.6. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.7. 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).
- 3.8. 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.
- 3.9. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out and 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.

- 3.10. 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.

- 3.11. 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.

- 3.12. Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type “A” inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a construction certificate.

4. Conditions to be Satisfied During Construction.

- 4.1. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
- 4.2. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 4.3. While building work is being carried out, the consent holder must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- 4.4. 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.

- 4.5. While building work is being carried out and where no noise and vibration management plan is approved under this consent, the consent holder is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- 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. 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 consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.9. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 4.10. While building work is being carried out, the consent holder must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb

inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

- 4.11. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the consent holder must, at their own expense:

- 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 consent condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 4.12. 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.

- 4.13. While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the consent holder is to compile and provide records of the disposal to the principal certifier, detailing the following:

- The contact details of the person(s) who removed the waste
- The waste carrier vehicle registration
- The date and time of waste collection
- A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- The address of the disposal location(s) where the waste was taken
- The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the consent holder is to maintain all records in relation to

that Order or Exemption and provide the records to the principal certifier and Council.

- 4.14. The requirements of the submitted Waste Management Plan shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:
- 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*; and
 - b. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*; and
 - c. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW; and
 - d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it; and
 - e. Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste; and
 - f. All materials and resources that are to be stored on site during construction works are contained on the site; and
 - g. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses; and
 - 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.
- 4.15. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the principal certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the consent holder and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.

- 4.16. 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.
- 4.17. All excavations must be kept free from the accumulation of water. Before approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with before approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.
- 4.18. While vegetation removal, demolition and/or building work is being carried out, the consent holder must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.
- The consent holder must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.
- 4.19. Where replacement boundary fencing is required to be installed, it must be 1.8 metres high unless otherwise shown on the approved plans or as stipulated within this Determination Notice. The materials and colours of the fence must be selected in consultation with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than 1 metre in height. All costs related to fencing must be borne by the consent holder.
- 4.20. While site or building work is being carried out, the consent holder must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970 – 'Protection of trees on development sites' and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.
- 4.21. All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS 4373 – 'Pruning of amenity trees' and Australian Standard AS 4970 – 'Protection of trees on development sites'. Site specific conditions relating to tree protection shall take precedence over this requirement.
- 4.22. Works on downstream properties is to be carried out in accordance with the following:

- The owners of downstream property shall be given at least seven (7) days' notice in writing of intention to commence work within their property, together with particulars of the proposed work.
 - Where drainage excavation works extend below the level of the base of the footings of buildings the consent holder shall, at their own expense:
 - a. preserve and protect such building from damage; and
 - b. if necessary, underpin and support such buildings.
 - Restoration of drainage works in the downstream property shall be to the satisfaction of the owners of the property/these properties.
- 4.23. 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.
- 4.24. Any excavation works carried out on site should be closely monitored to ensure no signs of potential acid sulfate soil or actual acid sulfate soil are observed. Indicators may include grey to greenish-blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site must be stopped, and Council is to be notified immediately. A suitably qualified environmental consultant must be contracted to further assess the site.
- 4.25. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.
- Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.
- 4.26. Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.
- Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.
- 4.27. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The

consent holder must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

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. 43 off-street car spaces being provided in accordance with the submitted plans. This shall comprise:
 - a. 37 residential spaces
 - b. Six residential visitor spaces
- 5.3. For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.
- 5.4. Before the issue of an occupation certificate, the principal certifier must ensure that no portion of the approved structure, including gates and doors during opening and closing operations, provides for encroachment upon Council’s footpath area.
- 5.5. A report as prepared by a registered surveyor must be submitted to the principal certifier verifying that the reduced level (RL) of the finished floor level at each level, the height of external walls, the maximum reduced level (RL) of roof structures / roof eaves overhangs and the external wall setbacks to the property boundaries all conform with the approved plans.
- 5.6. Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:

- a. no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
 - b. the consent holder has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – 'Preservation of Survey Infrastructure'.
- 5.7. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:
- a. After comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
 - b. Where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.
- Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).
- 5.8. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.
- Before the issue of the occupation certificate, the principal certifier must request written confirmation from the relevant authority that the relevant services have been completed.
- 5.9. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the principal certifier before the issue of an occupation certificate.
- 5.10. 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).
- 5.11. Before the issue of an occupation certificate, the consent holder 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.
- 5.12. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater management 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 Bankstown Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the stormwater management system.

The principal certifier must provide a copy of the Work As Executed Plan and Hydraulic Engineer's Certification to Council with the occupation certificate.

- 5.13. The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the *Conveyancing Act 1919*.

Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, before the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.

- 5.14. 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.
- 5.15. Before the issue of an occupation certificate, the principal certifier is to ensure that the traffic signalling system required has been installed to the following specifications:
- a. The system of traffic lights and/or mirrors must be installed at the ends of any single lane ramp(s), to indicate traffic movement on the ramp(s).
 - b. The system using traffic light signals must maintain a green signal to entering vehicles at the point of entry and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway.
- 5.16. 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.

- 5.17. Before the issue of any occupation certificate, an agreement must be entered into with Council on terms satisfactory to Council for the collection of waste.
- 5.18. Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.
- 5.19. 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 – ‘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.
- 5.20. Before the issue of an occupation certificate, the principal certifier must ensure that access to the residential lobby is secured through a key card, swipe card, intercom or other method to restrict access to the lobby to only residents or visitors.
- 5.21. Before the issue of an occupation certificate, the principal certifier must ensure that the letterboxes installed have non-master key locks, to prevent theft and fraud.
- 5.22. Before the issue of an occupation certificate, the principal certifier is to ensure that on-site CCTV surveillance cameras have been strategically installed and that they will operate and be maintained throughout the development with particular coverage to:
 - a. principal entrance/s and exits;
 - b. all areas within the premise occupied by the public (excluding toilets);
 - c. staircases in multilevel premises; and
 - d. the area within a 10m radius external to the public entrance(s) to the premise.

Installation of the surveillance system is to ensure suitable and clearly visible signage is displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words “Closed Circuit Television in use on these premises”.

All CCTV recording equipment and cameras shall be of high-grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras.

CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.

All CCTV recording devices and cameras shall be regularly checked to ensure the equipment is operating correctly. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.

All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour before opening and closing times of the premises.

The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage.

Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

- 5.23. The buildings / dwellings must be readily identified from the street with the allocated house numbers. An official "property numbering" letter is issued to the consent holder indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.
- 5.24. 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.
- 5.25. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – 'The Control of the Obtrusive Effects of Outdoor Lighting'.
- 5.26. Before the issue of any occupation certificate, a design verification from a qualified designer shall be submitted to the principal certifier. The design verification is a statement in which the qualified designer verifies that the

development 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 Part 2 of SEPP No. 65.

6. Conditions of Use.

- 6.1. Any activity carried out in accordance with this approval shall not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations
- 6.2. No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats.
- 6.3. No approval is granted or implied for the use of any roof element for any purpose other than for gaining access to carry out maintenance or repairs.
- 6.4. The approved car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 6.5. The on-site stormwater detention storage system within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.
- 6.6. During occupation and ongoing use of the building, the consent holder 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).
- 6.7. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway. This is to ensure that vehicles entering the site do not have to wait at the top of the ramp, and vehicles wishing to exit the site must wait for entering vehicle in the basement at the waiting bay.
- 6.8. All vehicles associated with the development are to enter and exit the site in a forward direction.
- 6.9. The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out.
- 6.10. 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.

- 6.11. The development must be carried out in compliance with Council's "Domestic Waste and Recycling Service Policy and Guideline".
- 6.12. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 6.13. 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.

-END-

Canterbury Bankstown Local Planning Panel - 05 December 2022

ITEM 2	DA-762/2022 - 74 Rickard Road, Bankstown
	Building identification signs for the Western Sydney University (WSU) Bankstown City Campus, including four large WSU logo and branding signs located on the facades of the building, and nine smaller signs located at various entry points to the building.
FILE	DA-762/2022 – Darani / Bankstown
ZONING	B4 Mixed Use
DATE OF LODGEMENT	6 October 2022
APPLICANT	Stuart Nisbett
OWNERS	Canterbury-Bankstown Council
ESTIMATED VALUE	\$461,065.99
AUTHOR	Planning

REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel as the land to which the development application relates is owned by Canterbury Bankstown Council.

Development Application No. DA-762/2022 proposes building identification signs for the Western Sydney University (WSU) Bankstown City Campus. This includes four large WSU logo and branding signs located on the facades of the building, and nine smaller signs located at various entry points to the building.

The proposed works in the development application are being undertaken in association with the approved State Significant Development for the WSU Bankstown City Campus (SSD-9831).

DA-762/2022 has been assessed against the provisions contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring amongst other things, an assessment against State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Bankstown Local

Environmental Plan 2015, Draft Canterbury Bankstown Local Environmental Plan 2020, and Bankstown Development Control Plan 2015.

The application was notified for a period of 14 days. No submissions have been received.

The development provides a planned and appropriate form of building identification through signage that fits with the character of this building and the Northern Central Business District of Bankstown.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the conditions being agreed to by the applicant in accordance with Section 4.33(1)(b) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-762/2022 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The site of the proposed development is within the Bankstown Central Business District (CBD), within the Northern CBD Core of the Civic Centre. The subject site is known as 74 Rickard Road, Bankstown. The site is a regular allotment that is currently zoned B4 Mixed Use.

The site contains the Western Sydney University Bankstown City Campus which is currently under construction and was approved as a State Significant Development under SSD-9831. The building is 19 storeys in height and is anticipated to accommodate approximately 2,000 students and 250 staff. The surrounding development consists of a number of land uses, consisting of a mix of commercial and civic uses. A review of the nearby uses in the vicinity of the development are provided below:

- **East**
 - Civic Tower is located to the east, and comprises a mixture of uses including commercial offices, Canterbury Bankstown City Council, Legal Aid NSW and the Bankstown Community Services Centre. The building is 13 storeys in height.
 - Between the Civic Tower and the subject site is the Appian Way that is proposed to be activated as public open space with landscaping and street furniture. This has been approved under DA-969/2021.
- **West**
 - The Bankstown Library and Knowledge Centre is located immediately west of the site and consists of a three-level building providing a library, public theatre, conference and exhibition spaces, and a cafe.
- **South**
 - Adjoining the site on the southern boundary is Paul Keating Park, which is a public park with an area of approximately 1.225ha. The park contains open space and ancillary play equipment. The Bankstown Council Chambers (a heritage item), is situated to the south west of the site, however it does not have a direct physical or spatial relationship with the area of works.
- **North**
 - Rickard Road, a regional road, is to the north of the site with a mix of residential apartment buildings and ground floor commercial uses.



Figure 1: Aerial photo of the subject site in red, and the surrounding local area.

Source: NearMaps 2022

PROPOSED DEVELOPMENT

DA-762/2022 proposes a mix of business identification signs and building identification signs for the Western Sydney University Bankstown City Campus. For the purposes of this report the proposed signage has been categorised as larger ‘primary signs’ that would be attached to the building façades, and smaller ‘secondary signs’ that would be situated at the entry points of the building:

‘Primary Signs’:

- 1 x 45m² business identification sign (WSU Branding) on the eastern façade.
- 1 x 94m² business identification sign (WSU Branding) on the southern façade.
- 1 x 28m² business identification sign (WSU Logo) on the western façade.
- 1 x 36m² business identification sign (WSU Logo) on the southern façade.

‘Secondary Signs’:

- 1 x 3.4m² business identification sign (WSU Branding) adjacent to the Rickard Road entrance.
- 2 x 0.9m² business identification signs (WSU Branding and WSU Logo) on the Appian Way entrance.
- 2 x business identification signs (0.44m² WSU Branding and 0.9m² WSU Logo) on the Paul Keating Park entrance.
- 2 x 2.0m² business identification signs (WSU Logo) on the Rickard Road entrance.

- 2 x 0.4m² building identification signs (Building name) at the building entrances on Rickard Road and Paul Keating Park.

The signs proposed on the eastern, western and southern facades are fabricated aluminium with internal LED modules with transformers and dimmers allowing for adjustable brightness. These signs consist of one WSU logo for each and two of these also include individually fabricated aluminium letters that are to be mechanically fixed to façade blades of the building. A translucent vinyl logo sign is proposed on the southern façade. The proposed façade signs can be seen in Attachment F.

There are six smaller WSU logo and branding signs proposed at the building entrances. The Rickard Road entrance is proposed to include a white vinyl/acrylic logo and branding sign directly adjacent of the entrance to the west. The Rickard Road entrance itself is proposed to have translucent vinyl logo signs to cover the full extent of the sidelight panels on either side of this entrance. Adjoining the Appian Way, there are two separate entry points. Each of these entrances are proposed to have one translucent vinyl logo and one vinyl branding sign. The same size and design of signage is also proposed at the entrance directly adjoining Paul Keating Park.

The application also proposes two building name identification signs above the Rickard Road and Paul Keating Park entrances. These signs consist of 10mm THK fabricated aluminium letters fixed to the fascia by a concealed 15mm spacer.

The proposed signage is intended to effectively identify the building and the Western Sydney University brand at both skyline and street entrance level.

The originally approved development under SSD-9831 included 'signage zones' on the southern, eastern and western building elevations. The larger 'primary signs' proposed under this current DA are located according to these approved signage zones. Compliance with the approved dimensions of the signage zones is discussed later in this report.

Statutory Considerations

When determining this application, the relevant matters listed in Section 4.15(1) of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Bankstown Development Control Plan 2015 (BDCP 2015)
- Canterbury Bankstown Local Infrastructure Contributions Plan 2022

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 (Transport and Infrastructure) 2021

Clause 2.119 Development with frontage to classified road

The proposed development is adjacent to Rickard Road which is a state-owned road. The proposed signage would not have any effect on the vehicular access to the road, the safety, efficiency and ongoing operation of the road, and the traffic noise/emissions. Therefore, this development complies with all parts of this clause and referral to TfNSW is not required.

State Environmental Planning Policy (Industry and Employment) 2021

Schedule 5 Assessment Criteria

Chapter 3 of the State Environmental Planning Policy (Industry and Employment) 2021 covers advertising and signage which is relevant to this development. The main aims and objectives of this chapter are to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of a high-quality design and finish. The proposed development has been assessed against this chapter of the SEPP, particularly the contents of Schedule 5, and Council is of the view that the proposed signage satisfies and achieves the applicable objectives as set out below:

- The proposed signage is compatible with the desired future character of the Northern CBD core of Bankstown, and the location of the 4 'primary' façade signs that have previously been approved under SSD-9831. Therefore, the proposed signage is part of the desired character set out to be achieved when the development was originally approved by the Department of Planning. The Western Sydney University Bankstown City Campus is the first development of its kind in the Bankstown CBD, however the proposed signage is consistent with other building identification signage on high rise development in Bankstown such as the Bankstown Sports Club.
- The proposed signage would not protrude above or significantly extend out from the structure and would not compromise or obscure any important views. Proposed signage would be visible in the Bankstown CBD skyline and would enhance the quality of vistas and the skyline by identifying and signifying the nature of the high-rise building through high quality signage.
- The scale and proportion of the proposed signage is appropriate for this development. The only encroachment beyond the approved SSD 'signage zones' occurs on the southern façade logo and branding sign that has a height of 3.7m. The associated signage zone approved for this sign had a height of 3m, causing a height

encroachment of 700mm. This is an acceptable encroachment as the proposed signage would cover approximately 94.1m² which is 2.4% of the south-facing façade. This represents an imperceptible increase of 0.4%. There is no specific provision within SSD-9831 that requires the signage to be completely restricted to the signage zone, and the proposed encroachment would not cause any impacts on the surrounding environment. The signage is directly adjacent to Paul Keating Park and would not be immediately visible from any major roads. It is also to be taken into consideration that the other logo and branding sign proposed on the eastern facing façade is 400mm lower in height than allowed under the signage zone and approximately 3.1m less than the allowable width. The other logo signage located on the southern façade has a proposed height that is 150mm lower than the height allowed under the signage zone.

- The proposed signage is compatible with the scale and proportionate to the building on which the signage would be fixed. The signage zones approved under the SSD application are compatible with the building and proposed signage in this DA mostly complies with these. The proposed location of signage on the façade and entry points of the building respect important design features of the building and aesthetically improves the overall design of the site.
- All signage illumination is adjustable in brightness and is designed to meet Australian Standards. The illumination would not cause any detracting of amenity to nearby residential development. The only adjoining residential development is located north of the site directly across from Rickard Road. No signage has been proposed on the northern façade to prevent any loss of amenity at this property.
- Building entry signage should not affect motorists as it is small scale and setback quite far from the road. Southern façade signage is adjoining Paul Keating Park and is not directly adjoining any roads. Eastern and western façade signage would be visible from Rickard Road, although this would be located above motorist sightlines. The proposed signage is to be completely fixed to the building and would not reduce the safety for motorists, pedestrians and cyclists travelling in the Bankstown CBD and on Rickard Road particularly.

Bankstown Local Environment Plan 2015

The proposed development is consistent with the relevant objectives of the B4 Mixed Use zone set out in the Bankstown Local Environment Plan 2015 as it is compatible with the scale of the development to which the signage is to be attached, and enhances the role of the Bankstown CBD as a major metropolitan centre.

The Bankstown Council Chambers, noted as Heritage Item I6 under the BLEP 2015, is located at 375 Chapel Road, Bankstown. Given the nature of the proposed signage in an area not directly adjacent to the heritage item, the proposed development would not affect the heritage significance of the Bankstown Council Chambers. A Heritage Impact Statement (HIS) was prepared as part of the SSD for the WSU-Bankstown City Campus and this concluded that the development would have no adverse impacts on the adjoining heritage site. The proposed signage has been designed to not detract from the adjoining Paul Keating

Park as the southern façade signage closest to the park is proposed to be translucent glazing rather than an aluminium LED lit sign. All LED signage includes adjustable brightness.

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

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

The Draft Canterbury Bankstown Local Environmental Plan (CBLEP) applies to the subject site. The Draft CBLEP has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now being considered by the Department of Planning Industry. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft CBLEP 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 draft instrument.

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 A1 & A3 of Bankstown Development Control Plan 2015.

STANDARD	BDCP 2015 PART A1		
	REQUIRED	PROPOSED	COMPLIANCE
1.0 Desired character for the Bankstown CBD mixed use precincts	The desired character is to have the Northern CBD Core precinct continue to function as the heart of the City of Bankstown, with a mix of retail and commercial activities on the ground and first floors, and high density living above. Development will generally be in the form of tall buildings to create an identifiable skyline image for the Bankstown CBD. The tallest buildings will generally locate around Paul Keating Park to define the Civic Precinct and to take advantage of the amenity provided by the park.	The proposed signage would positively contribute to the identifiable skyline of Bankstown. The proposal fits with the desired future character of the Northern CBD core of Bankstown.	Y
2.1 Setbacks	Development must comply with the minimum street setbacks as shown in Figure 3.	Figure 3 shows the site of 74 Rickard Road to have zero setback to the street frontage. Proposed signage would not affect this.	Y

2.7 Building design	Development must articulate the facades to achieve a unique and contemporary architectural appearance that: (a) unites the facades with the whole of the building form; (b) provides the facades with an appropriate scale and proportion that responds to the use of the building and the desired character of the precinct; (c) combines high quality materials and finishes; and (d) considers any other architectural elements to Council's satisfaction.	The proposed signage would complement the façade of the building with high quality signage. The scale and proportion of the signage is compatible with size, scale and height of the building. This is considered appropriate within the desired streetscape character of the precinct.	Y
2.8 Building design	Development must use colour, modulation or articulation to improve the appearance of blank party walls when viewed from the street.	Proposed signage would not be located on any blank party walls. The proposed signage would fit comfortably on the façade.	Y

STANDARD	BDCP 2015 PART A2		
	REQUIRED	PROPOSED	COMPLIANCE
9.6 Business and building identification signs	Development must not display signs or goods in the landscape buffer zone of an allotment. This clause does not apply to a pylon sign.	No landscape buffer zone on the site.	Y
9.7 Business and building identification signs	Building identification signs and business identification signs that are painted or attached to a building must not screen windows and other significant architectural features of the building.	The proposed signage would partially screen windows of the building, however, this is considered acceptable due to the open glass window design of the facades. Signage would complement the significant—architectural features of the building.	Y
9.8 Business and building identification signs	Council does not allow the following signs: (a) flashing signs, flashing lights, signs which incorporate devices which change colour, a sign where movement can be recognised by a passing motorist; (b) signs extending over street boundaries, other than those permitted	The proposed signage does not fit the description of any of the prohibited signs within this control. Therefore, proposed signage complies.	Y

	<p>in conjunction with shops, or the like, where such buildings are erected on the street alignment;</p> <p>(c) any sign that would adversely affect existing traffic lights;</p> <p>(d) any sign that is not permanently fixed to the site; Bankstown City Council Bankstown Development Control Plan 2015–Part B2 37 March 2015 (Amended June 2019)</p> <p>(e) any sign made of canvas, calico or the like. Council may grant a limited approval for a maximum period of 1 month, provided the sign complies with relevant legislation;</p> <p>(f) any under awning sign in excess of 2.5 metres x 0.4 metre; and</p> <p>(g) signs at a lower level than 2.6 metres over the footway.</p>		
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Section 7 within ‘Part A3 Key infill development sites’ of BDCP 2015 is of relevance as it relates to the Western Sydney University Bankstown Campus site.

Section 7 of Part A3 of BDCP 2015 lists a number of objectives and controls relating to 74 Rickard Road, Bankstown however there are no specific signage controls in this section. The proposed signage is however compatible with the description within the character statement. The proposal achieves a high standard of architectural quality, responds to neighbouring buildings, and would not impact the amenity to the adjoining Paul Keating Park.

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

As part of the SSD approval for the University campus, Council entered into a Voluntary Planning Agreement (VPA) for the delivery of public domain works in The Appian Way. The signage proposed under this current DA would not impact this VPA, nor are any additional planning agreements proposed.

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

The proposed development is Crown development by means of Clause 294 of the Environmental Planning and Assessment Regulation 2021. In conjunction with Section 4.33 of the *Environmental Planning and Assessment Act 1979*, a consent authority (other than the Minister) must not refuse its consent to a Crown development application, except with the approval of the Minister, or impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

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

The proposed development is unlikely to result in any 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 would be acceptable.

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

The site is considered suitable for the proposed development. The proposed signage is proportionate to the scale of the WSU Bankstown City Campus building and is consistent with the signage zones approved within the relevant State Significant Development.

Submissions [section 4.15(1)(d)]

The application was notified for a period of 14 days consistent with the provisions contained in Council's Community Participation Plan. No submissions have been received.

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

Approval of the proposed development would not contravene the public interest.

CONCLUSION

DA-762/2022 has been assessed against the provisions contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring amongst other things, an assessment against State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Draft Canterbury Bankstown Local Environmental Plan 2020, Bankstown Local Environmental Plan 2015, and Bankstown Development Control Plan 2015.

The development provides an appropriate outcome in the context of the surrounding locality and demonstrates compliance with all relevant environmental planning instruments and development control plans.

RECOMMENDATION

It is recommended that the application be approved subject to the conditions set out in Attachment B being agreed to by the applicant in accordance with Section 4.33(1)(b) of the *Environmental Planning and Assessment Act 1979*.

CONDITIONS OF CONSENT

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

1. Approved Development.

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

Plan Name	Dated	Revision	Prepared By
East HL Details	27/04/2022	C	Central Signs Group
South HL Details	27/04/2022	C	Central Signs Group
South LL Details	27/04/2022	C	Central Signs Group
West HL Details	27/04/2022	C	Central Signs Group
E1_Building Entry ID_Gallery	17/02/2022	A	There
E2_Building Entry ID	17/02/2022	A	There
E3_Building Entry ID_Rickard Rd	17/02/2022	A	There
E4_Building Entry ID_Appian Way	17/02/2022	A	There
E5_Building Entry ID_Paul Keating	17/02/2022	A	There

- 1.2. A separate application shall be submitted to Council before the erection of any additional signage unless the proposed signage qualifies as exempt or complying development in accordance with relevant legislation.
- 1.3. The sign is approved in conjunction with the Western Sydney University Bankstown City Campus. If at any time the use mentioned ceases, the signage approved under this development consent must be removed from the building.

2. Conditions to be Satisfied Before Construction.

- 2.1. Crown building work must not be commenced unless the building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws.
- 2.2. Development Contributions of \$4,610.66 must be paid for this development before the commencement of any works. The contributions are levied and applied under the Canterbury Bankstown Local Infrastructure Contributions Plan 2022 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 is to commence until payment of development contributions. Construction of the development may NOT commence until the development contributions are paid.

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

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

- 2.3. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the commencement of works. Development contribution amounts are non-refundable if you do not proceed with your development.
- 2.4. Before the commencement of works, payment of the long service levy is required, under the *Building and Construction Industry Long Service Payments Act 1986*, section 34. The long Service levy is calculated to be 0.35% of the total cost of the building and construction work. Payment is not required where the value of works is less than \$25,000. Payment can be calculated using the Levy Portal [Calculator at https://longservice.force.com/bci/s/levy-calculator](https://longservice.force.com/bci/s/levy-calculator). Payment must be made via the [Long Service Levy Portal](https://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 2.5. 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 consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the commencement of works 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 consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

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

- 2.6. The following requirements apply before the commencement of building work in accordance with this Determination Notice:
 - a. the consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 2.7. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 2.8. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

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

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

- 2.9. 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. Conditions to be Satisfied During Construction.

- 3.1. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 3.2. The construction and fixing of the signage is to be carried out in accordance with details prepared by a suitably qualified practising structural engineer, in accordance with the structural provisions of the Building Code of Australia (BCA).
- 3.3. Construction may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.
- 3.4. Any 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.
- 3.5. 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. Conditions to be Satisfied Before Occupation.

- 4.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.

- 4.2. An occupation certificate must not be issued until all conditions relating to building works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 4.3. A suitably qualified Professional Civil Engineer shall certify that the 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. Conditions of Use.

- 5.1. The use of the premises shall not contravene the Protection of the Environment Operations Act 1997. The operation of the premise shall be carried out in accordance with the requirement of the NSW EPA, where relevant.
- 5.2. No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 5.3. No additional external signage is approved under this development consent. Any additional external signage details must be submitted to Council for approval prior to installation, unless the signage qualifies as exempt or complying development in accordance with relevant legislation.
- 5.4. Signs shall be maintained in good order at all times. No third party advertising is permitted on any of the approved sign at any time.
- 5.5. Signs shall not flash or contain flashing lights or devices that enable the signs to change colour (other than the colours approved).
- 5.6. The signs shall only be illuminated during the approved hours of operation associated with the use of the premises. The intensity of the lights illuminating the sign shall be limited to 120 watts per square metre of glass.
- 5.7. Any lighting of the signs or the signage areas shall be designed so as not to cause nuisance to residences in the area or to motorists on nearby public roads and must ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282-1997 The Control of the Obtrusive Effects of Outdoor Lighting, Australian Standard AS1158. The Lighting of Public Roads and Public Spaces and any other relevant Australian Standards.

-END-

Canterbury Bankstown Local Planning Panel - 05 December 2022

ITEM 3	DA-596/2021 - 680 New Canterbury Road, Hurlstone Park
	Demolition of the existing building and the construction of a four storey shop top housing development of 14 residential units and one commercial unit over two levels of basement parking with proposed subdivision into two lots, for the purpose of land dedication for the widening of Wattle Lane.
	Note: This application is an Integrated Development and requires approval from Water NSW under the Water Management Act 2000
FILE	DA-596/2021 – Budjar / Canterbury
ZONING	B2 Local Centre
DATE OF LODGEMENT	20 July 2021
APPLICANT	MKD Architects Pty Ltd
OWNERS	MIDM Hurlstone Pty Ltd and Lo Hurlstone Pty Ltd and TKK Hurlstone Pty Ltd
ESTIMATED VALUE	\$4,929,259.00
AUTHOR	Planning

REPORT

This matter is reported to Council's Local Planning Panel in accordance with Item 4, Schedule 2 of the Local Planning Panels Direction – Development Applications, issued by the Minister for Planning under section 9.1 of the EP&A Act 1979 on 23 February 2018, as the application seeks consent for a development for which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and for which the development is four or more storeys in height.

Development Application No. DA-596/2021 proposes the demolition of the existing building and the construction of a four storey shop top housing development of 14 residential units and one commercial unit over two levels of basement parking with proposed subdivision into two lots, for the purpose of land dedication for the lane widening of Wattle Lane.

DA-596/2021 has been assessed against the relevant provisions of State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Canterbury Local Environmental Plan 2012 and the Canterbury Development Control Plan 2012 and proposes the following variations, considered worthy of support:

- Communal Open Space
- Deep Soil Zones
- Visual Privacy / Setbacks
- The prohibition of mechanical car parking devices

The application was advertised for a period of 21 days from 1 September to 22 September 2021 and a further 28 days from 1 June to 29 June 2022. Five objections were received during this period, which raise concerns relating to the suitability of the development for the site, loss or privacy, solar access and overshadowing, amenity (noise), traffic and parking impacts.

POLICY IMPACT

The matter has no direct policy implications.

FINANCIAL IMPACT

The matter 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-596/2021 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 680 New Canterbury Road, Hurlstone Park, being legally identified as Lot 1 of DP 124306. The site is an irregular allotment that fronts New Canterbury Road to the north, Wattle Lane to the south and east and No. 682-704 New Canterbury Road to the west. The frontage to New Canterbury Road measures 14.54 metres and with an average site depth of 49.6 metres, the site area amounts to 613.3m². The site is zoned B2 Local Centre under CLEP 2012, with B2-zoned lots to the north and west and R2 Low Density Residential zoned lots to the east and south, across Wattle Lane.

The site contains a single storey brick commercial building which is currently being used as for automotive services. The surrounding development consists of a mix of commercial premises and residential developments. Across New Canterbury Road from the subject site are older retail premises and a new shop-top development. To the west of the site is an existing commercial development and to the east and south (rear) of the site are lower density residential developments.

The site is also to the west of a church and petrol station along new Canterbury road, directly across Wattle Lane. The site and its surrounds are shown below in Figure 1.



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



Figure 2: Front view of site. Source: NearMaps2021

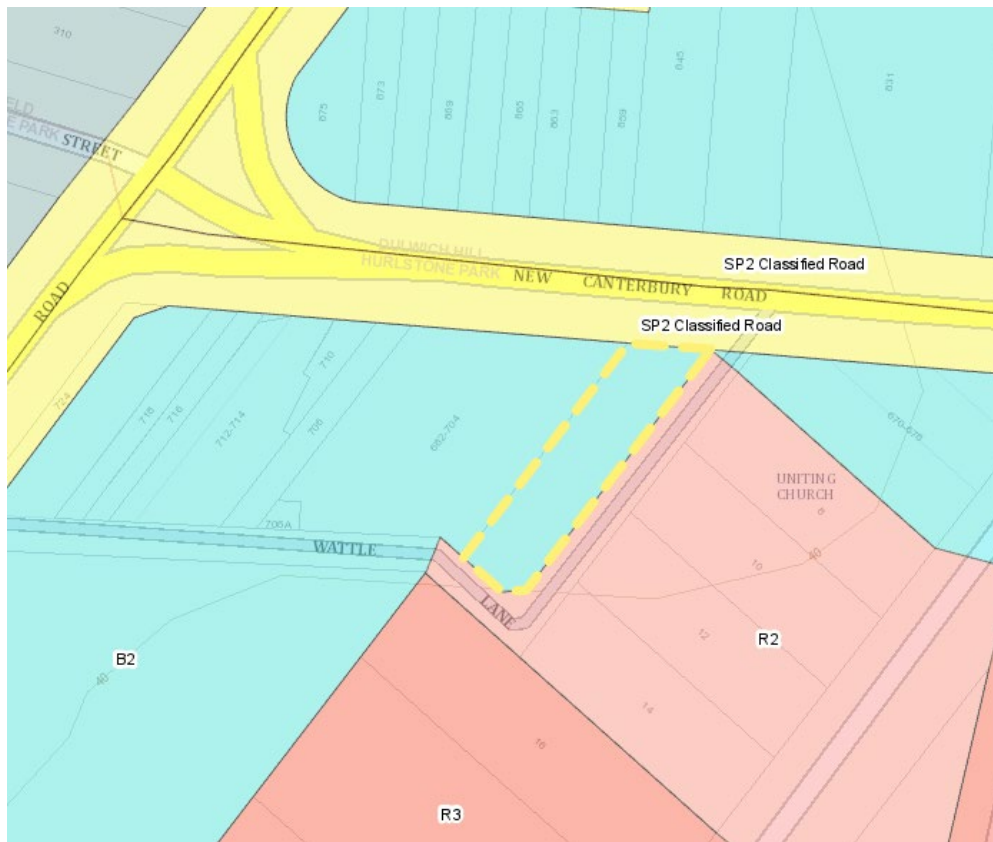


Figure 3: Zoning Map (subject site in yellow).

BACKGROUND

A pre-DA meeting for this site was held in 2015 which proposed a 5-storey shop-top housing development.

On 4 September 2017, the Independent Hearing and Assessment Panel (IHAP) approved DA-645/2015 for the demolition of existing structures and construction of a shop top housing development consisting of 14 apartments over five storeys with two levels of basement car parking and one ground floor retail premise.

On 20 May 2020 the Land and Environment (LEC) Court approved DA-201/2018 for the demolition of existing structures and development of a five storey building, comprising a 48-room boarding house development, a commercial premise at ground level, and associated two levels of basement parking and ground level parking. It is worth noting that this court approval included the use of two mechanical vehicle lifts to access the basement levels.

PROPOSED DEVELOPMENT

The subject application, Development Application No. DA-596/2021 was lodged on 28 July 2021 and proposes the demolition of the existing building and the construction of a four storey shop top housing development of 14 residential units and one commercial unit over two levels of basement parking with proposed subdivision into two lots, for the purpose of land dedication for the lane widening of Wattle Lane.

The specifics of the development are as follows:

Floor	Description
Basement Level 2	<ul style="list-style-type: none"> • 10 x parking spaces (incl. 1 x accessible space) • 2 x Car lift • 6 x bicycle spaces • Storage spaces
Basement Level 1	<ul style="list-style-type: none"> • 10 x parking spaces (incl. 1 x accessible space) • 2 x car lift • Storage spaces
Ground Floor	<ul style="list-style-type: none"> • Entry lobby • 1 x commercial/retail tenancy • Retail & residential waste storage areas • Service rooms • 2 x bicycle spaces • 3 x spaces (incl. 1 x accessible space) • 2 x Car lift and waiting bay • Substation
Level 01	<ul style="list-style-type: none"> • 5 x two-bedroom units
Level 02	<ul style="list-style-type: none"> • 5 x two-bedroom units
Level 03	<ul style="list-style-type: none"> • 3 x two-bedroom apartments • 1 x three-bedroom apartment • Communal open space

Total	<ul style="list-style-type: none"> • 14 residential units • 1 commercial unit • 20 residential / visitor car parking spaces (2 accessible) • 3 commercial / visitor car parking spaces (1 accessible)
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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 acts, environmental planning instruments, development control plans, codes and policies are relevant:

- Water Management Act 2000
- State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

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.

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)]

Water Management Act 2000

In accordance with s90(2) of the *Water Management Act 2000* the application was referred to Water NSW due to dewatering requirements for basement construction. Water NSW provided concurrence with conditions of consent. These conditions have been incorporated into the attached determination notice (Appendix B).

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

A detailed site investigation prepared by Environmental Investigations accompanies this application. The report concludes that the site can be made suitable for the proposed development, subject to the recommendations provided in the report. The proposal is also accompanied by a Remediation Action Plan (RAP) prepared by EI Australia. This report concludes that subject to the implementation of the works described in the RAP, EI considers that the site can be made suitable for residential use, in accordance with the SEPP.

The application was reviewed by Councils Environmental Health Officer who has concluded that subject to imposed conditions of consent, the site will be suitable for the proposed used as a shop-top housing development.

State Environmental Planning Policy (Infrastructure) 2007

With New Canterbury Road being designated State Road 167, the application was referred to TfNSW (formally RMS) for comment as the development fronts a classified roadway, though concurrence is not required as the development has been assessed as satisfying the matters raised in clause 101(2) which are addressed separately below. TfNSW responded with recommended conditions of consent pertaining to the development, which have been incorporated within the conditions of consent that accompany this report.

Considerations:

101(2)(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

Vehicular access to the site is to be provided from Wattle Lane only, with no direct access from New Canterbury Road (a classified roadway).

101(2)(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

- (i) the design of the vehicular access to the land, or*
- (ii) the emission of smoke or dust from the development, or*
- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*

TfNSW has commented on the development, providing recommended conditions of consent, which, in conjunction with restricted access from Wattle Lane are considered suitable to demonstrate that the development will not provide for adverse safety or operational impacts to New Canterbury Road.

101(2)(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

An acoustic report was submitted as part of this development application, which has been reviewed by Council's Environmental Health Officer as suitable to allow for reasonable acoustic and vibration amenity to the residents of units which may be impacted by roadway operations. The recommendations of this acoustic report have been incorporated into within the conditions of consent that accompany this report.

State Environmental Planning Policy 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 three or more storeys and contain at least four or more dwellings. Residential apartment development does not include boarding houses or serviced apartments.

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. These principles are discussed as follows based on Council's assessment:

Principle 1: Context and Neighbourhood Character

The site is consistent with the objectives of the zone as the development consists of a shop top housing development. The proposed development will result in a building bulk and a development generally in keeping with the area. Whilst some breaches to the policies and controls exist, these are unrelated to height, with the development complying with the maximum permitted building height. Accordingly, Council considers these breaches acceptable in this instance only, for the reasons set out in this report.

Principle 2: Built Form and Scale

The design ensures that the proposed development is appropriate to the existing and desired future character of the streetscape in terms of scale, bulk and height. Also, the appropriate use of materials and finishes helps to define the base of the building from the upper storey to provide articulation in the building façade.

Principle 3: Density

The density of the proposed development is satisfactory and a reasonable response to the existing and desired future context as it offers a high level of amenity for residents and each apartment.

Principle 4: Sustainability

A BASIX Certificate has been submitted, which details the resource, energy and water efficiency measures that will be incorporated into this proposal.

Principle 5: Landscape

The Landscape design principle states that good design is recognised when landscaping and buildings operate as an integrated and sustainable system, resulting in attractive developments that contribute to the landscape character of the streetscape. It also states that good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity, provides for practical establishment and long-term management.

A Landscape Plan formed part of the documentation with this application which demonstrates a good landscape design that is in keeping with the nature of the business zone. Adequate plantings on private and communal open spaces assist in softening the development's built-form and providing habitats for native flora and fauna.

Principle 6: Amenity

The proposed development offers good amenity through a combination of appropriate room dimensions, solar access, natural ventilation of apartments, storage contained within each apartment and private open space. In addition to the internal amenity offered to each apartment, the overall layout of the development provides adequate parking and adequate proportions of built form to landscaped areas and communal open space.

Principle 7: Safety

The safety design principle states that good design optimises safety and security within the development and the public domain. The proposed development achieves safety through its compatibility with the Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012. The proposal provides increased activation and passive surveillance to the street and the communal open space area. Additionally, residential entry and lobby areas are to be secured and well-lit.

Principle 8: Housing Diversity and Social Interaction

This principle aims to achieve good design by providing a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents. The proposed development offers a combination of one bedroom, two bedroom and three-bedroom apartments. The location of the site is in good proximity to public transport which widens the demographic and social mix.

Principle 9: Aesthetics

The articulation of external facades and general compliance with the relevant built form standards reduces the perceived visual bulk of the building. Also, the proposed development satisfactorily provides a ground floor that contributes to the activation of the local centre with a well-designed shop/commercial spaces on the ground floor with provisions for services and utilities being located within the built form, not disrupting the streetscape. Together, these elements contribute to the desired future character of the locality and enhance the existing surrounding streetscapes.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development			
Standard	Requirement	Provided	Complies (Y/N)
PART 3 - SITING THE DEVELOPMENT			
3B-1 Orientation	Building types and layouts respond to the streetscape and site while optimising solar access within the development	Building responds to corner positioning along New Canterbury Road, optimising northern solar access.	Y
3B-2 Orientation	Overshadowing of neighbouring properties is minimised during mid winter	Shadowing impacts are limited to the rear yards of dwellings on Melford Street, which retain compliance with CDCP 2012.	Y
3C-1 Public Domain Interface	Transition between private and public domain is achieved without compromising safety and security	Presentation to the street is adequate, with separate commercial and residential entries.	Y
3C-2 Public Domain Interface	Amenity to the public domain is retained and enhanced	Presentation to the street provides for street-level activation and an enhancement of the visual character of the area. Services to the development are contained discreetly within the built form.	Y
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	60.0m ² of communal open space with a minimum 3.0 metre dimension = 10% Compliance requires 153m ²	N Discussion Below

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development														
Standard		Requirement		Provided	Complies (Y/N)									
		hours between 9am and 3pm on June 21.		of communal open space. Shortfall of 93.3m ² , which is consistent with DA-201/2018 which was approved by NSW LEC, providing for an outdoor communal open space area of 60m ² .										
3D-2 Communal and Public Open Space		Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		The communal open space provided allows for two or more separate groups to benefit from the amenity of the space. The area is provided with a partial glass roof to allow all-weather and all-season usage of the space.	Y									
3D-3 Communal and Public Open Space		Communal open space is designed to maximise safety		Communal open space is visible from common circulation routes and is within proximity to two (2) residential units.	Y									
3E-1 Deep Soil Zones		<table><tr><td>Site Area</td><td>Minimum Dimension</td><td>Deep Soil %</td></tr><tr><td>Less than 650m²</td><td>-</td><td>7%</td></tr></table>		Site Area	Minimum Dimension	Deep Soil %	Less than 650m ²	-	7%	No deep soil area provided. Due to site constraints of the business zone and road frontages, it is considered that this is an acceptable outcome. DA-645/2015 and DA-201/2018 were both approved with no deep soil zones.	N Discussion Below			
Site Area	Minimum Dimension	Deep Soil %												
Less than 650m ²	-	7%												
3F-1 Visual Privacy		<table><tr><td>Building Height</td><td>Habitable Rooms and 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 and Balconies	Non-habitable Rooms	Up to 12m	6m	3m	Up to 25m	9m	4.5m	2.6 metre separation between habitable room at rear of site and side boundary (west). Due to the width of the site, it is considered that reduced setbacks are suitable where design has restricted opportunities for direct overlooking. All east-facing habitable	N Discussion Below
Building Height	Habitable Rooms and Balconies	Non-habitable Rooms												
Up to 12m	6m	3m												
Up to 25m	9m	4.5m												

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development			
Standard	Requirement	Provided	Complies (Y/N)
		<p>room windows provide 6 metres to property boundary (across laneway)</p> <p>3.0 metre building setback from boundary for circulation space windows.</p> <p>DA-645/2015 and DA-201/2018 were both approved with non-compliant building setbacks.</p>	
3F-2 Visual Privacy	Sites and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open spaces.	Screenings and window orientation assist to maximise visual privacy.	Y
3H-1 Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Two vehicle access points are proposed, both of which provide access to Wattle Lane and are considered suitable in this instance.	Y
3J-1 Bicycle and Car Parking	Car parking is provided based on proximity to public transport in Metropolitan Sydney and centres in regional areas.	Sufficient car parking is provided for the proposed uses.	Y
3J-2 Bicycle and Car Parking	Parking and facilities are provided for other modes of transport.	Bicycle parking is provided within the basement level for residents.	Y
PART 4 – DESIGNING THE BUILDING			
4A-1 Solar and Daylight Access	<p>Living rooms and private open spaces of 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.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>12 of 14 units = 86% compliant solar access</p> <p>2 / 14 units = 14% receive no direct solar access</p>	Y
4A-2 Solar and Daylight Access	Daylight access is maximised where sunlight is limited	All habitable rooms are provided with opportunities for sunlight (even if not direct).	Y

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development												
Standard		Requirement		Provided	Complies (Y/N)							
4A-3 Solar and Daylight Access		Design incorporates shading and glare control, particularly for warmer months		Shading devices used along the northern elevation.	Y							
4B-1 Natural Ventilation		Habitable rooms are naturally ventilated		All habitable rooms are provided with operable windows.	Y							
4B-2 Natural Ventilation		The layout and design of single aspect apartments maximises natural ventilation		Most apartments are provided with two elevations of windows for natural ventilation.	Y							
4B-3 Natural Ventilation		At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		9 / 14 = 64% Units 3.01 and 3.04 are considered suitable for cross-ventilation as the building indentations on the west elevation are open to the sky above, allowing for suitable ventilation from above, despite the size of the voids provided by building articulation.	Y							
4C-1 Ceiling Heights		<table><tr><td>Habitable Room</td><td>2.7m</td></tr><tr><td>Mixed-use</td><td>3.3m for ground floor</td></tr></table>		Habitable Room	2.7m	Mixed-use	3.3m for ground floor	2.7 metre internal ceiling heights proposed for all residential units. 3.7 metres proposed on the ground floor.	Y			
Habitable Room	2.7m											
Mixed-use	3.3m for ground floor											
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> <div>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</div>	Studio	35m2	1-bed	50m2	2-bed	70m2	3-bed	90m2	All units achieve compliance with size minimums and dimension minimums.	Y
Studio	35m2											
1-bed	50m2											
2-bed	70m2											
3-bed	90m2											
4D-2 Apartment Size and Layout		Habitable room depths are limited to a maximum of 2.5 x the ceiling height 2.		All units achieve compliance with size minimums and dimension minimums.	Y							

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development					
Standard	Requirement			Provided	Complies (Y/N)
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window				
4D-3 Apartment Size and Layout	<p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>			All units achieve compliance with size minimums and dimension minimums.	Y
4E-1 Private Open Space and Balconies	Studio	4m2	-	All units achieve compliance with minimum sizes and dimensions of balconies.	Y
	1-bed	8m2	2m		
	2-bed	10m2	2m		
	3-bed	12m2	2.4m		
4E-2 Private Open Space and Balconies	Primary private open space and balconies are appropriately located to enhance liveability for residents.			Balconies are located off of living areas.	Y
4E-3 Private Open Space and Balconies	Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.			Balconies add interest to the elevations.	Y
4F-2 Common Circulation and Spaces	Common circulation spaces promote safety and provide for social interactions between residents.			Common circulation spaces are relatively straight and are provided with natural light.	Y
4G-1 Storage	Studio	4m3		All units comply with in-unit storage and further storage within the basement.	Y
	1-bed	6m3			

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development					
Standard		Requirement		Provided	Complies (Y/N)
		2-bed	8m3		
		3-bed	10m3		
		At least 50% of the required storage is to be located within the apartment			
4H-1	Acoustic Privacy	Noise transfer is minimised through the siting of buildings and building layout		Bedrooms are located away from noise sources.	Y
4H-2	Acoustic Privacy	Noise impacts are mitigated within apartments through layout and acoustic treatments		Acoustic treatments provided along the New Canterbury Road frontage.	Y
4M-1 Facades		Building facades provide visual interest along the street while respecting the character of the local area		The proposed façade adds interest to the streetscape and emphasises the corner.	Y
4M-2 Facades		Building functions are expressed by the facade		Ground floor commercial is clearly visible.	Y
4O-1	Landscape Design	Landscape design is viable and sustainable		Landscaping is provided on a variety of levels through planter boxes.	Y
4P-3 Planting on Structures		Planting on structures contributes to the quality and amenity of communal and public open spaces		Planter boxes are of sufficient size to allow for suitable plantings.	Y
4Q-1	Universal Design	Universal design features are included in apartment design to promote flexible housing for all community members		Adaptable units proposed.	Y
4Q-3	Universal Design	Apartment layouts are flexible and accommodate a range of lifestyle needs		A variety of layouts are proposed, all of which are considered suitable.	Y
4W-1	Waste Management	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents		Waste storage is suitable on the ground level.	Y
4W-2	Waste Management	Domestic waste is minimised by providing safe and convenient source separation and recycling		Separation of commercial and residential waste provided, along with separation of red and yellow bins.	Y

Areas of the development which fail to comply with the above-noted provisions of the ADG are detailed below:

3D-1 Communal and Public Open Space

It is considered that the 60m² of communal open space provided, representing 10% of the site area, where 25% is required, is suitable for this development and worthy of support based both on the constraints of the site, the site zoning of B2 Local Centre as well as the site's history. The site is a landlocked site, surrounded on three sides by road reserves and benefitting from less than 15 metres in width which restricts the development's ability to provide for deep soil areas or increased setbacks. Further, the most recent DA approval on site (DA-201/2018) also provided for the same area of external communal open space for residents, while providing a more intense form of development.

The communal open space area is situated on the top-level, with a positive and fully accessible interface between the common circulation corridor. This area benefits from easterly solar access through the east elevation, as well as all-day solar access provided through a partial glass roof. Plantings along the eastern edge of the space allow for interaction with natural elements while protecting privacy of nearby residential receptors.

The site benefits from proximity to nearby parks, and the development also provides fully compliant private open spaces to all dwellings in the form of balconies, most of which are north or east-facing.

Due to the site constraints, zoning, site history, and quality of the development, it is considered that the proposed variation to minimum communal open space is considered worthy in this instance and would not create an undesirable precedent, owing to the landlocked nature of the site.

3E-1 Deep Soil Zones

Due to the constrained nature of the site, and preference for street-level activation along the New Canterbury Road frontage, and the requirement for vehicle access at the rear of the site, opportunities for deep-soil planting are not provided within this development application.

It is considered this is a suitable and desirable planning outcome in order to allow for the above-noted street-activation and vehicular access. Additionally, were the development to propose deep-soil areas, these would be contained to the southern portion of the site, being shadowed throughout the day and resulting in a poor amenity and design outcome. The non-compliance is consistent with other developments within the immediate vicinity, given the narrow nature of many of the sites and is also consistent with previous approvals on site.

3F-1 Visual Privacy / Setbacks

Reduced building setbacks along the western boundary are considered a suitable planning outcome in this instance owing to the narrow nature of the site (14.7 metres), the three street frontages and the historical approvals on site, all of which approved variations to building setbacks in order to achieve a reasonable development outcome on site.

The development has been designed to restrict direct sightlines from both within this development and from neighbouring developments into sensitive areas. Partial walls along balconies at the rear of the development direct sightlines to the laneway and window treatments along the building indentations provide for natural light and ventilation while maintaining privacy.

It is considered that variations to minimum setbacks are warranted in this instance due to the site's width constraint and the quality of the design and that through the imposition of conditions, the western façade will be designed and built using durable and visually appealing materials.

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

In accordance with BASIX SEPP, a BASIX Certificate (Certificate Number 1214510M dated 7 July 2021) accompanies this application. The Certificate makes several 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

CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012			
Complies	Complies	Complies	Complies (Y/N)
Cl. 1.2 Aims of Plan	This Plan aims to make local environmental planning provisions for land in Canterbury former LGA	Development consistent with the aims	Y
Cl. 1.3 Land to which plan applies	This Plan applies to the land identified on the Land Application Map	Plan applies to land	Y
Cl. 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	B2 zone	Y
Cl. 2.3 Zone objectives and Land Use Table	The consent authority must have regard to the objectives for development in a zone.	Consistent with the zone	Y

CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012			
Complies	Complies	Complies	Complies (Y/N)
Cl. 2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Requires consent – requested	Y
Cl. 4.3 Height of buildings	The height of development is compatible with the character, amenity and landform of the area in which the development will be located	18-metre building height applies 13.24 metre building height proposed	Y
Cl. 4.4 Floor space ratio	Establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site	No FSR applies	N/A
Cl. 6.2 Earthworks	To ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	Excavation suitable, subject to conditions of consent.	Y
Cl. 6.4 Stormwater management	To minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters	Stormwater system referred to Council's Development Engineer, with conditions of consent provided.	Y
Cl. 6.6 Essential services	the supply of water, the supply of electricity, the disposal and management of sewage, stormwater drainage or on-site conservation, suitable vehicular access.	Essential services are integrated into the built form.	Y

Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]

Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020

On 30 June 2020 the Canterbury Bankstown Local Planning Panel endorsed the Planning Proposal (PP_2019_CBANK_005) to proceed to the Department of Planning, Industry and Environment for finalisation and making. The Planning Proposal seeks to produce a single

set of planning rules and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan. The Planning Proposal however does not propose any change to the planning or development provisions relating to this site.

As the Planning Proposal has been exhibited it must be considered under Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act, 1979. The Draft CBLEP also seeks to insert a saving provision “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies, and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced”.

The proposed development will not impact the Draft CBLEP and is considered consistent with the CBLEP.

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

Canterbury Development Control Plan 2012

The following table provides a summary of the development application against the controls contained in Canterbury Development Control Plan 2012.

CANTERBURY DEVELOPMENT CONTROLS PLAN 2012 Parts B and C4			
Control	Requirement	Complies	Complies (Y/N)
B1.2.2 General Parking	Developments comprising more than one land use must provide the combined parking requirement based on the individual rates of parking for each land use identified in the parking rates table (Table B1.2 of this DCP).	Application proposes commercial and residential land uses.	Y
B1.3.1 Parking Rates	Rate in Table in B1	1.2 spaces x 12 units + 1 space x 2 units = 16.4 + 3 spaces for visitors = 19 residential spaces Shop / office – 1 space per 40 = 4 spaces Total of 23 spaces + 1 car wash bay required. 23 spaces + 1 car wash bay provided over three levels.	Y

CANTERBURY DEVELOPMENT CONTROLS PLAN 2012 Parts B and C4			
Control	Requirement	Complies	Complies (Y/N)
B1.4.1 General Parking	Mechanical parking devices, including car lifts, will not be supported.	Access to the basement levels is provided via two car lifts.	N See discussion below
B1.4.3 Bicycle Parking	Provide a mix of bicycle storage facilities to cater for short and long stay parking.	Bicycle parking provided for residents within basement level.	Y
B1.4.4 Car Wash Bays	Car wash bays are to be provided in addition to visitor parking as identified in section B1.4.2.	Provided	Y
B1.4.8 Requirements for Land Uses	All residential developments are to locate driveways to the side of the site, and within the side setback.	Driveways provided at rear and side of site, with access of laneway.	Y
B2.2 Landscape Plan	A plan is required for all developments except for dwellings and pools	Landscape plan outlines plantings contained within planter boxes throughout the development. The landscape plan is considered suitable.	Y
B4.2 Accessible and Adaptable Design	<p>All development must comply with the following:</p> <ul style="list-style-type: none"> a. All Australian Standards relevant to accessibility; b. The Building Code of Australia access requirements; and c. The Disability Discrimination Act 1992. <p>Provide and maintain a continuous accessible path of travel as part of the internal fit out of a building. A continuous accessible path of travel is a barrier-free path of travel, for all users of a premises, that provides access to all public spaces and facilities (such as toilets, service counters, meeting rooms that would be available to a person who does not have a disability).</p>	<p>Accessible design considered and implemented with adaptable units and step-free access.</p>	Y

CANTERBURY DEVELOPMENT CONTROLS PLAN 2012 Parts B and C4			
Control	Requirement	Complies	Complies (Y/N)
B7.2.2 CPTED Principle: Access Control	Provide clear entry points, including: a. Entrances that are easily recognisable through design features and directional signage; and b. Minimise the number of entry points.	Entrances from the street are clear and legible.	Y
B7.3.1 CPTED Principle: Residential Surveillance	Allow natural observation from the street to the dwelling, from the dwelling to the street, and between dwellings	Balconies allow for observation of the street below.	Y
B9.6 Design and Access Waste Bin Storage Areas	Waste bin storage areas and bin presentation areas are to be capable of accommodating the allocated number of standard waste containers for residential premises, or sufficient containers for commercial premises as provided	Bin storage area has been designed in accordance with Council requirements.	Y
C5.2.1.2 Isolated Sites	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	The subject site is isolated and is not considered to isolate the adjoining property which is able to be redeveloped on its own.	Y
C5.2.1.3 Open Space	Residential flat buildings must provide communal open space areas equivalent to at least 25% of the open space on a site that is created by the required setbacks and building separations.	60.0m ² COS / 613.3m ² site area = 10% Discussed within ADG assessment.	N See discussion in ADG section
C5.2.1.3 Open Space	Each area of communal open space must have a minimum dimension of 6m and larger developments should consider greater dimensions.	3.9 metre minimum dimension, though the majority of the area is in excess of 6.0 metres in dimension.	N See discussion in ADG section
C5.2.1.3 Open Space	Provide windows that overlook communal open space and the approaches to the main building lobby to generate a variety of visible	Windows are provided from common circulation space.	Y

CANTERBURY DEVELOPMENT CONTROLS PLAN 2012 Parts B and C4				
Control	Requirement		Complies	Complies (Y/N)
	pedestrian activity.			
C5.2.1.4 Layout and Orientation	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.		Properties at nos. 10, 12 and 14 Melford Street will be impacted by shadowing throughout the day of their rear private open space as a result of this proposal. Impacts are not present until 11am as shown on submitted shadow diagrams, with solar access remaining compliant from 9am – 12pm at the mid-winter solstice.	Y
D1.3.4 Setbacks	Location	# of storeys	Upper Level (Podium)	N See discussion in ADG section
	B2 (except Campsie Civic, Canterbury Town Centre and Roselands Shopping	1-3 build to boundary	4 th storey – 3 metres Greater than four storeys – 5m (all storeys to be set back this distance including the fourth storey)	
D1.3.4 Setbacks C3 – Residential Boundary Side Setback	Except where proposed development adjoins a residential zone boundary, setbacks are not required in B1 or B2 where the desired character is for a continuous street frontage.		Continuous street frontage is a desired outcome. West boundary is to a lane, across which, a portion of which, is shared with a residential zone.	Y
D1.3.4 Setbacks C4 – Residential Boundary Side Setback	Establish a 45-degree height plane projected at 1.5m from the residential boundary.		Building encroaches into the 45-degree height plane, as is consistent with previous approvals on site, and is considered appropriate given the laneway buffer between the development and the adjoining residential land, which faces away from the development.	N See discussion in ADG section

CANTERBURY DEVELOPMENT CONTROLS PLAN 2012 Parts B and C4			
Control	Requirement	Complies	Complies (Y/N)
		Previous consents granted on site also provided for minor incursions within the 45-degree height plane. Justification for these incursions was based on site constraints in terms of width, as well as the widening of Wattle Lane (proposed within this application).	
D1.3.4 Setbacks C6 – Residential Boundary Side Setback	A two-storey limit on the boundary with residential zone applies. (refer to Figure D1.1)	Building does not provide a 2-storey setback, as is consistent with previous approvals on site, and is considered appropriate given the laneway buffer between the development and the adjoining residential land, which faces away from the development. Rear portions of neighbouring sites are provided with garages and outbuildings restricting sightlines into private open spaces.	N See discussion in ADG section
D1.3.4 Setbacks C7 – Residential Boundary Rear Setback	Establish a 45-degree height plane projected at 6 m from the residential zone boundary.	Minor encroachment into 45-degree height plane, considered suitable owing to site constraints and prior approvals on site for similar non-compliances.	N See discussion in ADG section
D1.3.4 Setbacks C8 – Residential Boundary Rear Setback	Provide minimum 6m setback to the residential zone boundary.	Laneway at the rear is in excess of 6.0 metres	Y
D1.4.3 Façade Treatment C1(d)	Emphasise corner sites by using treatments to make the sites visually prominent. Retention of traditional facades will be given precedence over emphasising corner sites.	Development sits on a prominent corner and adequately addresses it through a cured frontage.	Y

B1.4.1 General Parking

While mechanical parking devices are prohibited by CDCP 2012, the site benefits from two historical approvals (one for an RFB and the other for a boarding house) which utilised this system of basement access (DA-645/2015 and DA-201/2018). Approval of mechanical parking devices was considered suitable in these instances due to the isolated nature of the site, being less than 15 metres in width. Due to the site constraints, and site history it is considered that a variation to this clause is worthy of support in this instance again. The unique nature of the site is unlikely to create precedent for other sites within the LGA.

The subject application seeks to retain the approved use of mechanical parking devices through the use of two mechanical car lifts to access the two levels of basement parking. Both levels of basement parking are reserved for the residential component of the site, with all commercial parking being provided on ground floor. This arrangement allows for only residents and their visitors to require use of the lifts, with no servicing needing access to the basement levels. The location of the lifts off of Wattle Lane also is considered a suitable outcome as the lane is of low-use and is not considered likely to provide for queuing impacts along New Canterbury Road. The proposed design also provides redundancy in the form of two lifts should one cease operations. With two lifts, access to the basement levels will be viable for the lifetime of the development.

As the site's width provides limited opportunities to vehicular access, the use of mechanical devices is essential to the redevelopment of the property. Without mechanical assistance, the site is unable to be adequately developed, as all car parking would be provided on the ground floor, resulting in a substandard development outcome as the site fronts a high-pedestrian traffic corridor. It is for this reason as well as the site's history that a variation to this control is in this instance, considered worthy of support subject to conditions of consent.

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

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

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

The proposed development is permissible in the subject site's current zoning and is consistent with the objectives of the zone as it provides a shop top housing development to accommodate a variety of housing needs and provide employment opportunities within the locality. The site is suitable for the development providing for the orderly and economic use of the land.

Submissions [section 4.15(1)(d)]

The application was advertised for a period of 21 days from 1 September to 22 September 2021 and a further 28 days from 1 June to 29 June 2022. Council received a total of five submissions which raised the following concerns:

Concern: Suitability of the Development on the Site

Comment: The development site is constrained with a narrow width and road frontages on three sides, which requires any proposal for this property to carefully consider the capacity of the site and potential impacts on adjoining properties. It has been demonstrated through supplied documentation and through a comprehensive assessment of the application against all applicable planning controls and policies that the subject development is suitable for the site, being located along a primary roadway and within a business zone. It is considered that the development provides for an appropriate transition between higher and lower density areas and that the design of the proposal responds to the particulars of the site in a way that lessens potential impacts on adjoining properties.

Concern: Health and Wellbeing

Comment: The development will be undertaken in accordance with conditions of consent which require, amongst other matters, the safe disposal of any harmful elements found on the site, the appropriate management of noise and emissions and the restriction of hours of operations in order to maintain adequate amenity to residents nearby.

Concern: Reduced Liveability

Comment: The development is permissible within the zone, complies with the maximum permitted building height and is considered to be an appropriate design for the locality and provides for an enhancement of the area, replacing a semi-industrial use with residential and commercial facilities. While some impacts from new developments can be expected, no information has been provided to demonstrate that this proposal will directly impact on the liveability of the surrounding area.

Concern: Traffic Impacts

Comment: The development has been assessed by Council's Traffic Officer who has provided conditions of consent, based on the recommendations of the submitted traffic and parking report. The development complies with the minimum require on-site car parking provision of the Canterbury Development Control Plan 2015. The development will be solely accessed off of Wattle Lane, which is considered to mitigate potential impacts to New Canterbury Road.

Additionally, an increase in width to Wattle Lane is proposed through this development application, which will increase the capacity and effectiveness of the laneway.

Concern: Development Control Non-Compliances

Comment: The development proposes a number of non-compliances with either the ADG or CDCP 2012. In this instance, due to the constrained nature of the site, being landlocked by Wattle Lane on three sides and a developed site on the fourth, it is considered that the current proposal is a reasonable outcome for the site. In this instance, full compliance with all controls is not considered to bring about a better planning outcome as it would render large portions of the site undevelopable.

Concern: Noise Pollution

Comment: Construction noise will be limited by an hours of construction condition imposed on the development. While demolition and construction regulations should limit noise outside of normal working hours, it is broadly acknowledged that during any period of construction, noise will occur during works.

In relation to the ongoing noise from the development, the proposed development is predominantly residential in nature and residential noise would be associated with this type of development. Conditions will be placed on the communal open space which limit the hours of use to the communal area. Instances of excessive noise or anti-social behaviour should be reported to the NSW Police.

Concern: Reduced Privacy

Comment: The proposed development is permissible within the area and has been designed to respond to the constraints of the sight through setbacks and privacy screenings. Additionally, it is considered that sightlines to adjoining properties have been further mitigated through the use of highlight windows and window orientation. While this development, or any development will have some impacts on adjoining properties, it is considered that there is sufficient separation between buildings to maintain a level of privacy which could be reasonably expected in a town centre location and which is consistent with the existing character of the area which currently contains taller structures providing overlooking.

Concern: Proposed Property Shadow

Comment: Solar access plans have been provided with the application and have been assessed and considered in the assessment of this application. The proposed development will provide for shadowing impacts at certain times of the day. However, due to the orientation of the property and the development pattern in the area and the setbacks from the property, the proposed development is not considered to provide for undue or excessive shadowing from what would be expected for a redevelopment of this site.

Concern: Impact on property values

Comment: The loss of property value is not a matter for consideration afforded to Council under the *Environmental Planning & Assessment Act, 1979* and as such, is not able to be considered through an application's assessment.

Concern: Ongoing Light Pollution

Comment: A condition of consent is imposed to require external lighting to be installed in such a manner to avoid disturbance to neighbours, including that on the communal open space.

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

The public interest is served through the detailed assessment of this application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, environmental planning instruments and development control plans. Based on the above assessment, the proposal is in the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, *Canterbury Local Environmental Plan 2012*, *Canterbury Development Control Plan 2012* and all other relevant environmental planning instruments and policies. The development is considered suitable for the site, being within a B2 Local Centre per CLEP 2012, consistent with the objectives of the zone and generally consistent with applicable controls and standards. Though a number of variations are proposed through this application it is considered that these variations are appropriate in this instance due to site constraints. On that basis, the application is recommended for approval subject to conditions of consent.

RECOMMENDATION

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

CONDITIONS OF CONSENT

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

1. Approved Development.

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

Plan No.	Plan Name	Date	Revision	Prepared By
A-103	Demolition Plan	June 21	C	MKD Architects
A-104	Site Plan	June 21	D	MKD Architects
A-106	Subdivision Plan	June 21	C	MKD Architects
A-201	Basement 2 Plan	June 21	C	MKD Architects
A-202	Basement 1 Plan	June 21	C	MKD Architects
A-203	Ground Floor Plan	June 21	D	MKD Architects
A-204	Level 1 Floor Plan	June 21	C	MKD Architects
A-205	Level 2 Floor Plan	June 21	C	MKD Architects
A-206	Level 3 Floor Plan	June 21	E	MKD Architects
A-207	Roof Plan	June 21	D	MKD Architects
A-301	South East Elevation	June 21	D	MKD Architects
A-302	North West Elevation	June 21	C	MKD Architects
A-303	North East & South West Elevations	June 21	C	MKD Architects
A-401	Section AA	June 21	D	MKD Architects
A-402	Sections BB & CC	June 21	D	MKD Architects

The recommendations contained within the following supporting documentation form part of this Determination Notice except where the conditions of this consent expressly require otherwise.

- a. All recommendations contained within the Hazardous Materials Survey prepared by EI Australia, dated 2 February 2017/ 31 January 2017, Report number E22664 AD_Rev0/ E22777 AC_Rev0 are to form conditions of consent.
- b. All recommendations contained within the Geotech Report prepared by EI Australia, dated 4 August 2016 report number E22777 GB are to form conditions of consent.
- c. The acoustic report submitted in support of this application prepared by Koikas Acoustics Pty Ltd, titled, 'ACOUSTICAL REPORT PROPOSED MIXED-USE DEVELOPMENT 680 NEW CANTERBURY ROAD, HURLSTONE PARK NSW', reference number 4542R20210615mj680NewCanterburyRoadHurlstonePark_DAv2.docx dated 1 July 2021 and all the recommendations stated within the report, form part of the development consent.

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

- 1.2. Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans (stamped by Council) and supporting documentation:
 - a. The western façade / elevation of the development is to be finished with a design and materials reflective of the north façade / elevation, being durable and visually appealing. No blank, concrete walls are to be presented to the west, where not immediately adjoining an existing structure.
- 1.3. A 2.3-metre-wide lane dedication at the southern boundary of the subject site is to be incorporated into all relevant plans and documentations, to accommodate for the future widening of Wattle Lane.
- 1.4. No approval is granted for use of the ground floor commercial unit through this determination notice. Separate consent through a new development application to Council is required before any use of the commercial unit, unless where exempt or complying in accordance with the relevant legislation.
- 1.5. A separate application shall be submitted to Council before the erection of any additional signage unless the proposed signage is "exempt development" in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

- 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 Imposed by Transport for New South Wales (TfNSW).

- 2.1. All buildings and structures other than standard pedestrian footpath awnings together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the New Canterbury Road boundary.
- 2.2. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

- 2.3. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.
- 2.4. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on New Canterbury Road.
- 2.5. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on New Canterbury Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

3. Conditions Imposed by Water NSW.

- 3.1. GT0115-00001 - Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- 3.2. GT0116-00001 - Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed

completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

- 3.3. GT0117-00001 - A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement – see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- 3.4. GT0118-00001 - If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- 3.5. GT0119-00001 - All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- 3.6. GT0120-00001 - The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0m below the natural ground surface.

- 3.7. GT0121-00001 - Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
- 3.8. GT0122-00001 - Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme).
- 3.9. GT0123-00001 - (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watarnsw.com.au/customer-service/waterlicensing/dewatering.
- 3.10. GT0150-00001 - The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological

assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site – Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.

- 3.11. GT0151-00001 - Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- 3.12. GT0152-00001 - This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- 3.13. GT0155-00001 - The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

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

- 4.1. Development Contributions of \$215,364.00 must be paid for this development before the issue of any construction certificate. The contributions are levied under Canterbury Development Contributions Plan 2013 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:

LGA Open space and recreation facilities	\$136,415.00
LGA Access and public domain facilities	\$38,422.00
LGA Community and cultural facilities	\$37,346.00
Plan management and administration	\$3,181.00

Indexing of the contribution amount to be paid: The development contribution payable will be adjusted, at the time of payment, to reflect Consumer Price Index

increases which have occurred since the “Consent to operate from date” which appears on the front page of this Determination Notice.

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

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

NOTE: Development contribution amounts are non-refundable.

- 4.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate. Development contribution amounts are non-refundable if you do not proceed with your development.
- 4.3. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. The long Service levy is calculated to be 0.35% of the total cost of the building and construction work. Payment is not required where the value of works is less than \$25,000. Payment can be calculated using the Levy Portal [Calculator at https://longservice.force.com/bci/s/levy-calculator](https://longservice.force.com/bci/s/levy-calculator). Payment must be made via the [Long Service Levy Portal](https://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 4.4. Separate approval must be sought (where required) under the relevant Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height above the proposed development and consequently, may require separate approval under the Regulations. It is advisable that approval to operate equipment (i.e. cranes) be obtained before the issue of any construction certificate.
- 4.5. 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.
- 4.6. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

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

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

- 4.7. The development must be carried out in accordance with the commitments shown on the submitted BASIX Certificate. The BASIX commitments must be reflected in the construction certificate plans and specifications. Any proposed changes to the BASIX commitments after the construction certificate has been issued will require an updated BASIX Certificate.
- 4.8. Before the issue of the relevant construction certificate, the consent holder 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 of 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.
- 4.9. The building must be designed and constructed to provide access and facilities for people with a physical disability in accordance with the Building Code of Australia.
- If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council through a modification application before a construction certificate being issued.
- 4.10. Before the issue of the relevant construction certificate, the consent holder must ensure a report from a suitably qualified consultant is prepared and demonstrates, to the certifier's satisfaction, that any adaptable dwellings specified in the approved plans or supporting documentation comply with the provisions of AS 4299 – 'Adaptable Housing Standards'.
- 4.11. Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- 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 consent holder must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 4.12. Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining property at 682-704 New Canterbury Road.
- 4.13. The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and 2 – 'The Use of Ventilation and Air- Conditioning in Buildings – Mechanical Ventilation in Buildings'.

Details of any mechanical ventilation and/or air-conditioning system complying with AS1668.1 and 2 – 'The Use of Ventilation and Air- Conditioning in Buildings – Mechanical Ventilation in Buildings', the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person and certified in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, to the satisfaction of the certifier before the issue of a construction certificate.

- 4.14. Before the issue of a construction certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – 'The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings', and AS1668.1 – 'The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings'.
- 4.15. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Before the issue of a construction certificate and occupation certificate the certifier must:
 - a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

- 4.16. 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 certifier before the issue of the construction certificate.
 - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 4.17. The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a. Two medium Duty VFCs at the property boundary with Wattle Lane,
 - b. Drainage connection to Council's drainage system,
 - c. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
 - d. Repair of any damage to the public road including the footway occurring during building works, and
 - e. Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority, and
 - f. Any redundant driveway along Wattle Lane frontage of the development site is to be removed and reinstated with kerb and gutter and verge to match with remaining kerb and gutter, and
 - g. The footpath is to be reconstructed along the New Canterbury Road and Wattle Lane frontages of the development site.

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 21 days prior to the information being required and prior to the issue of the construction certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

- 4.18. The Applicant is required to submit to Council the manufacturer's specifications, design and operation of the two lifts to be installed at the vehicle access and within the two basement levels, as described by PDC Consultants, in its letter dated 14 April 2022 (Ref: 0405r03v01), Traffic Management Plan This shall be illustrated on the plan to be submitted with the construction certificate application. The Applicant / Owner

shall be responsible for the installation, operation and maintenance of the 'traffic signal' facility at no cost to Council.

- 4.19. The Applicant is required to submit a Traffic Management Plan (TMP) on how the operation of the lifts system will be managed and maintained without any significant impact on vehicles queuing on Wattle Lane. The proposed lift system must be programmed to maintain that cars will have priority to be able to enter into the lifts without waiting. This is to ensure that vehicles entering the site do not have to wait at the top of the lift, and vehicles wishing to exit the site must wait for entering vehicle in the basement at the waiting bay.
- 4.20. Sight triangle is to be marked on the Ground Floor (Dwg No. A-2.03- Revision D – dated June 2021) and provided on the eastern (up) lift, in accordance with AS 2890.1:2004 Figure 3.3 – Minimum Sight Lines for Pedestrian Safety. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. . This shall be illustrated on plans submitted with the construction certificate.
- 4.21. 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.
- 4.22. 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 consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the issue of any construction certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

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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 consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

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

- 4.23. 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.
- 4.24. Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by the an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.

Plan Name	Number	Date	Prepared By
Stormwater Concept design	Job No 20222	9/12/2021	Scott Collis Consulting Pty Ltd

- 4.25. The pump out drainage system for the driveway/access ramp and car parking area/open space area shall be provided in accordance with Council's Canterbury Development Control Plan 2012 Part B5. The Engineer must design the Pump out drainage system to be in accordance with the Australian Standards AS 3500. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before the issue of any construction certificate. The engineer must certify that the hydraulic design complies with the above relevant standards.

- 4.26. 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.
- 4.27. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued.

Furthermore, for internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 4.28. 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 a qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the certifier for approval before the issue of a construction certificate.
- 4.29. Before the issue of any construction certificate for this development, the consent holder must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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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 construction and excavation materials shall be by the shortest practical route to the nearest "State Road", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.** The consent holder shall nominate the routes for approval by Council before commencement of any work on the site. All vehicles are to enter the on-street Works Zone adjacent to the site in a forward direction. U-turn and right-turn movements into the site, are generally not permitted.

An Agreement to Council's satisfaction, signed by the consent holder/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site and for local roads along the transportation routes shall be lodged with Council before release of any Construction Certificate. All damage must be rectified upon completion of work.

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 before the commencement of any works on the construction site.

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

Note: Approval by Council of a SPTMP may take up to six months. Accordingly, it is recommended the application to Council be submitted well in advance of the need for a construction certificate.

- 4.30. Before the issue of a construction certificate, the consent holder must ensure a Construction Site Management Plan (CSMP) is prepared before it is provided to and approved by the Certifier. The plan must include the following matters:
 - a. location and materials for protective fencing and hoardings to the perimeter on the site;
 - b. provisions for public safety;
 - c. pedestrian and vehicular site access points and construction activity zones;

- d. details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site;
- e. protective measures for on-site tree preservation (including in accordance with AS 4970 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable);
- f. details of any bulk earthworks to be carried out;
- g. location of site storage areas and sheds;
- h. equipment used to carry out all works;
- i. a garbage container with a tight-fitting lid;
- j. dust, noise and vibration control measures; and
- k. location of temporary toilets.

The consent holder must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

- 4.31. The consent holder shall apply to the Canterbury Bankstown Traffic Committee for the installation of a Works Zone at the site's frontage at least eight weeks in advance of the commencement of construction through a written request sent to council@cbc.city.nsw.gov.au (Attention: Traffic and Transport Services). The consent holder is to cover all relevant fees and charges associated with the Works Zone. Approval of the Works Zone is to be provided by Council before the issue of any construction certificate.
- 4.32. Sight triangles are to be marked on relevant plans, being provided at the intersection of the driveway and the property boundary in accordance with AS 2890.1: 'Figure 3.3 – Minimum Sight Lines for Pedestrian Safety'. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. Any structures, plantings or fencing within these triangles is to be a maximum height of 600mm to ensure sight lines are kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.
- 4.33. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
- a. Council's Waste Management Development Control Plan
- 4.34. The construction certificate plans shall include details of the waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building.

- 4.35. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate which identify that the bin carting route from the communal bin storage room to the waste collection point identified on stamped plans complies with the following requirements:
- Is direct and less than 10.0 metres in length,
 - Has a minimum width of 2.0 metres of hard surface;
 - Is of non-slip material and free from obstacles and steps;
 - Is not located within a driveway or carpark;
 - Has a maximum grade of 1:30 (3%); and
 - Has a layback installed at the collection point.
- 4.36. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the communal bin storage room that comply with the following requirements:
- Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
 - Floors must be finished so as to be non-slip with a smooth and even surface;
 - The room is to be integrated within the design and built-form of the development with a minimum 2.1m unobstructed room height in accordance with the Building Code of Australia;
 - Walls must be constructed of solid impervious material;
 - Ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
 - Walls, ceiling and floors must be finished in a light colour;
 - An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
 - A self-closing door openable from within the room;
 - Must be constructed to prevent the entry of birds and vermin;
 - Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
 - Any doorways must be 2 metres wide and open outwards; and
 - Designed to fit the following bin allocations:

Number	Bin Size	Bin Type
3	660L	Garbage (Red)
6	660L	Recycling (Yellow)
3	240L	Garden (Green)

It is the responsibility of the property manager to present any provided garden waste bins to the kerbside for collection by Council the evening before the designated collection day.

- 4.37. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the bulky waste storage room that comply with the following requirements:
- 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 design and built-form of the development 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; and
 - l. Designed to a minimum size of 4m².
- 4.38. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the commercial waste room that comply with the following requirements:
- a. Capacity for the following bins:
 - 1 x 240L garbage bins (collected weekly)
 - 1 x 240L recycling bins (collected weekly)
 - b. Service capacity required over and above Council's standard service is to be supplied by a private contractor.
 - c. For the premise to be used as a restaurant as indicated in the WMP the following allocations are required :
 - 600L of garbage per day operational , for 7 day opening this will be 4200L per week.
 - 420 L of recycling per day operational, for 7 days this will be 2940L/ week collected
 - d. All waste and recycling bins provided by Council as part of the standard waste and recycling service are collected by Council from the bin storage room as a collect and return service.
- 4.39. Prior to the issue of a Construction Certificate, the site is to be remediated in accordance with:
- a. The approved Remedial Action Plan, prepared by EI Australia, titled Remedial Action Plan, dated 2 February 2017 reference E22664 AD_Rev0/E22777 AD_Rev0.
 - b. State Environmental Planning Policy No. 55 - Remediation of Land;
 - c. The guidelines in force under the Contamination Land Management Act 1997.

The applicant must engage an appropriately qualified and experience environmental consultant to supervise all aspects of site remediation and validation.

Any variations to the approved Remediation Action Plan must be submitted to and approved in writing by the Accredited Site Auditor and Council prior to the continuing of such work.

- 4.40. Prior to issue of the Construction Certificate, the proponent must submit a detailed validation report to Council and the principal certifying authority.

The validation report must be prepared in accordance with:

- a. State Environmental Planning Guideline (SEPP) 55 – Remediation of Land’ (Department of Urban Affairs and Planning and NSW EPA, 1998);
- b. Relevant EPA Guidelines, noting in particular the ‘Guidelines for Consultants Reporting of Contaminated Sites’ (NSW Office of Environment and Heritage, 2011); and
- c. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The validation report must be prepared or reviewed and approved by an appropriately qualified environmental consultant.

The validation report must verify that the land is suitable for the proposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan prepared by EI Australia dated 2 February 2017, report number E22664 AD_Rev0/E22777 AD_Rev0.

- 4.41. Before the issue of a construction certificate, the certifier is to ensure that all carpark exhaust does not directly vent into private or communal open space.
- 4.42. A Trade Waste Agreement shall be obtained from Sydney Water before the discharge of trade wastewater to the sewer system. Wastewater treatment equipment is to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund. All wastewater treatment devices shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the Protection of the Environment Operations Act 1997.
- 4.43. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the Principal certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Canterbury DCP 2012 and must include the following features, notations and specifications:
- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
 - b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,

- c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any),
 - d. Details of drainage and watering systems (if any),
 - e. A Landscape maintenance schedule period of 12 months is to be applied to this development. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan,
 - f. All the tree supply stocks shall comply with the guidance given in the publication Specifying Trees: a guide to assessment of tree quality by Ross Clark (NATSPEC, 2003), and
 - g. All scheduled plant stock shall be pre-ordered, before issue of construction certificate or 3 months before the commence of landscape works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council before issue of any construction certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date.
- 4.44. A site wide landscape management plan is to be submitted to and approved by the certifier before the issue of a construction certificate. The plan is to address the communal open space and any site-wide maintenance requirements. The plan is to demonstrate who is responsible for and how the landscape features will be installed and detail the responsibility of ongoing maintenance of the landscaping.
- 4.45. 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.
- 4.46. A construction certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which development consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.
- 4.47. No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall:
- a. Not be located on awnings or attached to the face of the building,
 - b. Not be located on roofs in such a way that it is visible from any street, footpath or park,
 - c. Be visually screened if located 1.8 metres above ground level in other locations, and
 - d. Wiring shall be fully concealed.

All construction certificate documentation is to demonstrate compliance with these requirements.

- 4.48. The location of any air-conditioning and hot water units and associated infrastructure must be located to ensure that they are not visible from the street, and that they do not result in a non-compliance with the relevant built form controls and private open space controls contained within the Apartment Design Guide. Confirmation from a suitably qualified architect that the BASIX commitments do not compromise the design guidance as contained within the Apartment Design Guide must be provided to the certifier before the issue of a construction certificate.
- 4.49. 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.
- 4.50. All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.

5. Conditions to be Satisfied Before Construction.

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

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

A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work.

- 5.2. 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 consent holder.

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

- a. the principal certifier has, no later than two days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
- b. the principal certifier has, no later than two days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,
- 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 consent holder, 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 involved, 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 consent holder has given at least a two-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.

- 5.3. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the consent holder apply early for the certificate, as there may be water and sewer pipes to be built and this can take

some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Section 73 Compliance Certificates, or telephone 13 20 92.

- 5.4. 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 before the commencement of building work/s.

- 5.5. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property no less than 14 days before the commencement of any site or building works.
- 5.6. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 5.7. 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).
- 5.8. 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.
- 5.9. 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 and 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.

- 5.10. 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.
- 5.11. 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.

6. Conditions to be Satisfied During Construction.

- 6.1. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
- 6.2. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 6.3. While building work is being carried out, the consent holder must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- 6.4. 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.

- 6.5. While building work is being carried out and where no noise and vibration management plan is approved under this consent, the consent holder is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- 6.6. 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.
- 6.7. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 6.8. The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the principal certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 6.9. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 6.10. While building work is being carried out, the consent holder must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

- 6.11. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the consent holder must, at their own expense:

- 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 consent condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 6.12. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the consent holder must, at their 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 consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- 6.13. 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.

- 6.14. While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the consent holder is to compile and provide records of the disposal to the principal certifier, detailing the following:

- The contact details of the person(s) who removed the waste
- The waste carrier vehicle registration

- The date and time of waste collection
- A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- The address of the disposal location(s) where the waste was taken
- The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the consent holder is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

6.15. The requirements of the submitted Waste Management Plan shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:

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

- 6.16. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the principal certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the consent holder and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 6.17. 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.
- 6.18. All excavations must be kept free from the accumulation of water. Before approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with before approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.
- 6.19. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

- 6.20. Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be included within the validation report;

All imported fill must be compatible with the existing soil characteristics of the site.

- 6.21. Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.

Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.

- 6.22. If the Duty to Report contamination to the NSW EPA under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within two days of the notification to the NSW EPA.

- 6.23. All soils and material, liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and related guidelines, the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.

The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the Principal Certifying Authority before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.

All waste material must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an Occupation Certificate.

All waste must be transported by a contractor licensed to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

- 6.24. 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.

- 6.25. The carwash bay is to be bunded and connected to the sewer system to dispose of wastewater in accordance with the requirements contained in Canterbury Development Control Plan 2012 Part B5.
- 6.26. While vegetation removal, demolition and/or building work is being carried out, the consent holder must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The consent holder must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

- 6.27. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The consent holder must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

7. Conditions to be Satisfied Before Subdivision.

- 7.1. The subdivision application shall be submitted to Council and registered with NSW Land Registry services for the purpose of dedicating the relevant portion of the rear of the development site to widen Wattle Lane, with the newly created lot being dedicated to Canterbury Bankstown Council for this purpose.

Dedication is to be registered before the issue of an occupation certificate for the site.

- 7.2. An application and appropriate fees for the issue of a subdivision certificate shall be submitted to Council upon submission of the information referred to in condition 7.3 of this determination notice.
- 7.3. The following information must be submitted to Council via the NSW Planning Portal with an application for a subdivision certificate:

- a. A digital electronic version of the linen plan; and
- b. A complete set of the administration sheets provided as a digital electronic version. Please note that owners' signatures are not required on the administration sheets for endorsement; and
- c. An unsigned digital electronic version of the Section 88B Instrument (if applicable). Please note that owners' signatures are not required on the Section 88B Instrument for endorsement; and
- d. A copy of this determination notice as well as any approved modifications for this determination notice; and
- e. Evidence that all conditions of consent relevant to the release of the subdivision certificate have been complied with; and
- f. A compliance certificate (Section 73 of the *Sydney Water Act 1994*) from Sydney Water; and
- g. A report prepared by a registered surveyor verifying that the reduced level (RL) of the following conform with the approved plans:
 - i. The finished floor level at each slab level, and
 - ii. The height of any external wall; and
 - iii. The maximum level of roof structures / roof eaves overhangs; and
 - iv. The external wall and eave setbacks to the existing and proposed property boundaries; and
- h. A Work-As-Executed plan(s) of the constructed site stormwater management system and/or stormwater detention system, prepared by a registered surveyor. The plan(s) must be obtained before the release of the linen plans. The Work-As-Executed plan(s) must be shown on a copy of the approved stormwater drainage plan and must contain all information specified in the approved plans, Councils Standards, the relevant Australian Standards. The Work-As-Executed information shall be shown in red on a copy of the approved plans, signed off and dated by a registered surveyor. The information shall be submitted to the hydraulic engineer prior to certification of the as-built drainage system; and
- i. Certification from a professional engineer as defined in the National Construction Code (NCC) must be submitted to confirm that the constructed site stormwater management system and/or stormwater detention system as captured in the Work-As-Executed Plan(s) and from conducted site inspection(s) is in accordance with the approved plans, Councils Standards, Development Control Plan and the relevant Australian Standards; and
- j. A copy of the work permit compliance certificate (where required); and
- k. A copy of the final compliance certificate for the subdivision work (where required); and

An application for the issue of a subdivision certificate must be submitted to Council on the NSW Planning Portal and appropriate fees must be paid to Council at the time of submitting the information required by in this condition.

The subdivision certificate must not be issued until the requirements of this condition have been satisfied.

- 7.4. A Restriction as to User and Positive Covenant under the provision of Section 88B of the *Conveyancing Act 1919* and in accordance with the terms described in Council's Development Engineering Standards shall be registered on the title of the subject property requiring that the "On-Site Stormwater Detention System" within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.

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.

Canterbury Bankstown City Council shall be the only authority empowered to release, vary or modify the Restriction.

- 7.5. Any proposal for land subdivision will require a separate application to Council to obtain development consent and the subsequent approval of the plan of subdivision and issue of a subdivision certificate under Section 6.15 of the *Environmental Planning and Assessment Act 1979*.

8. Conditions to be Satisfied Before Occupation.

- 8.1. An occupation certificate must not be issued until such time as the subdivision proposed as part of this development has been registered with NSW Land Registry Services and with Council.
- 8.2. No approval is granted or implied for the use of the ground floor commercial premise.

Separate development consent is to be obtained for the use of this premises.

- 8.3. 23 off-street car spaces being provided in accordance with the submitted plans. This shall comprise:
- a. 19 residential spaces
 - b. Four business / commercial spaces

Note: Three of the required 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.

- 8.4. For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.
- 8.5. The occupation or use of the building must not commence unless an occupation certificate has been issued.

- 8.6. Before the issue of an occupation certificate, the principal certifier must ensure that no portion of the approved structure, including gates and doors during opening and closing operations, provides for encroachment upon Council's footpath area.
- 8.7. A report as prepared by a registered surveyor must be submitted to the principal certifier verifying that the reduced level (RL) of the finished floor level at each level, the height of external walls, the maximum reduced level (RL) of roof structures / roof eaves overhangs and the external wall setbacks to the property boundaries all conform with the approved plans.
- 8.8. Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:
- no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
 - the consent holder has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – 'Preservation of Survey Infrastructure'.
- 8.9. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:
- After comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
 - Where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.
- 8.10. Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s) at 682-704 New Canterbury Road.
- 8.11. Before the issue of an occupation certificate, the principal certifier must ensure that the car park is ventilated in accordance with the Building Code of Australia and, where necessary, Australian Standard AS 1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.
- 8.12. Before the issue of an occupation certificate, the principal certifier must approve a vehicle lift management plan, which details the procedures to be followed for routine maintenance of the vehicle lift access to the basement, as well as procedures in the instance of damage, malfunction or replacement of part of or the entirety of the lifts. This plan must include all manufacturer details of the lift systems as well as contact details of a suitably qualified professional / firm to service the lifts. All costs associated with repairs and replacements of the lifts are to be borne by the development / property owner(s).

- 8.13. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the principal certifier must request written confirmation from the relevant authority that the relevant services have been completed.

- 8.14. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the principal certifier before the issue of an occupation certificate.
- 8.15. Before issue of an occupation certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, must be submitted to the principal certifier.
- 8.16. 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).
- 8.17. Before the issue of an occupation certificate, the consent holder 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.
- 8.18. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater management 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 Canterbury Development Control Plan 2012 Part B5. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the stormwater management system.

The principal certifier must provide a copy of the Work As Executed Plan and Hydraulic Engineer's Certification to Council with the occupation certificate.

- 8.19. The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the *Conveyancing Act 1919*.

Where subdivision is not proposed, the surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, before the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.

- 8.20. The following signs must be provided and maintained within the site at the point(s) of vehicle egress:
- Compelling drivers to stop before proceeding onto the public way
 - 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.

- 8.21. 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.

- 8.22. Before the issue of any occupation certificate, an agreement must be entered into with Council on terms satisfactory to Council for the collection of waste.

- 8.23. Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the consent holder must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

- 8.24. Before the issue of an occupation certificate, the principal certifier must ensure that access to the residential lobby is secured through a key card, swipe card, intercom or other method to restrict access to the lobby to only residents or visitors.

- 8.25. Before the issue of an occupation certificate, the principal certifier must ensure that the letterboxes installed have non-master key locks, to prevent theft and fraud.

- 8.26. Before the issue of an occupation certificate, the principal certifier is to ensure that on-site CCTV surveillance cameras have been strategically installed and that they will operate and be maintained throughout the development with particular coverage to:

- a. principal entrance/s and exits;
- b. all areas within the premise occupied by the public (excluding toilets);
- c. staircases in multilevel premises; and
- d. the area within a 10m radius external to the public entrance(s) to the premise.

Installation of the surveillance system is to ensure suitable and clearly visible signage is displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".

All CCTV recording equipment and cameras shall be of high-grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras.

CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.

All CCTV recording devices and cameras shall be regularly checked to ensure the equipment is operating correctly. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.

All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour before opening and closing times of the premises.

The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage.

Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

- 8.27. The building must be readily identified from the street with the allocated house numbers. An official "property numbering" letter is issued to the consent holder indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.

- 8.28. 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.
- 8.29. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – ‘The Control of the Obtrusive Effects of Outdoor Lighting’.
- 8.30. Before the issue of any occupation certificate a design verification from a qualified designer shall be submitted to the principal certifier. The design verification is a statement in which the qualified designer verifies that the development 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 Part 2 of SEPP No. 65.

9. Conditions of Use.

- 9.1. The communal facilities must be available for the use all residents of the building and must be operated as common property on any strata subdivision of the site, with no exclusive use rights given.
- 9.2. No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats.
- 9.3. No approval is granted or implied for the use of any roof element for any purpose other than for gaining access to carry out maintenance or repairs.
- 9.4. The approved car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors’ vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 9.5. The on-site stormwater detention storage system within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.
- 9.6. During occupation and ongoing use of the building, the consent holder 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).
- 9.7. The Traffic Management Plan for the control, operation and management of the lifts system at the vehicle access and within the two basement levels are to be implemented throughout the ongoing use of the development.

- 9.8. All vehicles associated with the development are to enter and exit the site in a forward direction.
- 9.9. The requirements of the approved vehicle lift management plan are to be adhered to at all times during the lifetime of the development.
- 9.10. The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out.
- 9.11. 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.
- 9.12. The development must be carried out in compliance with Council's "Domestic Waste and Recycling Service Policy and Guideline".
- 9.13. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 9.14. 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.
- 9.15. Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 9.16. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 9.17. The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out.

- 9.18. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the Protection of the Environment Operations Act 1997. All waste generated shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request.

-END-

Canterbury Bankstown Local Planning Panel - 05 December 2022

ITEM 4	DA-402/2022 - 68 Undercliffe Road, Earlwood
	Alterations and additions to an existing single-storey dwelling inclusive of part basement area, ground floor addition to the forward portion of the dwelling, and an in-ground swimming pool.
FILE	DA-402/2022 – Budjar / Canterbury
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	27 May 2022
APPLICANT	Design Studio 407 Pty Limited
OWNERS	Mr Con Panagopoulos and Mrs Dianne Panagopoulos
ESTIMATED VALUE	\$499,000.00
AUTHOR	Planning

REPORT

This matter is reported to the Canterbury-Bankstown Local Planning Panel as the application received more than 10 unique submissions during the assessment of the application.

Development Application No. DA-402/2022 proposes alterations and additions to an existing single-storey dwelling inclusive of part basement area, ground floor addition to the forward portion of the dwelling, and an in-ground swimming pool.

The application has been assessed and found to be compliant with the objectives, and relevant development standards and development controls set out in the *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012*.

The application was notified once for a period of 14 days between 15 June 2022 to 28 June 2022. A total of 35 submissions from 20 separate properties were received in relation to the proposed development.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-402/2022 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as Lot B in Deposited Plan 356741, however is more commonly known as 68 Undercliffe Road, Earlwood. The subject site is zoned R2 Low Density Residential as prescribed by the zoning maps contained in the CLEP 2012.

The subject site is a rectangular-shaped allotment on the southern side of Undercliffe Road and has a primary frontage of 12.19m, a minimum depth of approximately 62.4m, and a site area of 763.8m². A rock cliff face runs along the rear of the site and is such that the neighbouring properties to the south are located considerably higher than those located on Undercliffe Road. The subject has a fall of 2.23m from the rear rock cliff face at RL 12.19 to the primary frontage of RL 9.96. The rock cliff face sits approximately 45.6m from the front boundary of the subject site. In addition, the subject site is affected by Class 5 Acid Sulfates Soils.

The subject site is currently occupied by a single-storey dwelling, with a carport forward of the front building wall and a rear single-storey outbuilding. To the immediate east of the site, at No. 66 Undercliffe Road, is a single-storey dwelling which is listed as a heritage item per Schedule 5 – Environmental Heritage of the CLEP 2012. To the immediate west of the site, at No. 70 Undercliffe Road, is another single-storey dwelling.



Figure 1: Aerial photo of the subject site

Source: NearMaps 2021



Figure 2: Streetscape and existing front elevation

Source: Google Street View 2022



Figure 3: Rock cliff face **Source:** Site Visit 14 July 2022 at 1:16pm

PROPOSED DEVELOPMENT

The Development Application proposes alterations and additions to the existing dwelling at the site, and involves the following works:

- Layout changes to existing dwelling,
- New two-storey addition,
- New covered area parking,
- New swimming pool, and
- Works to rear decking with associated roof and BBQ area

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in Section 4.15(1) of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following environmental planning instruments, development control plans, codes, and policies are relevant:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Canterbury Development Control Plan 2012 (CDCP 2012)
- Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

SECTION 4.15 ASSESSMENT

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

Environmental planning instruments [section 4.15(1)(a)(i)]**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The proposal has been assessed against the relevant aims and objectives of SEPP (Biodiversity and Conservation) which seeks to protect remaining native vegetation within urban areas. The site does not contain remnant native vegetation and is consistent with the aims of the instrument.

The proposed development seeks approval for the removal of one frangipani tree located on the western boundary. The proposal is considered suitable with respect to the requirements of the SEPP, subject to recommended conditions of consent at Attachment A

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

In accordance with the requirements of the 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 are incorporated into the recommended conditions of consent at Attachment A.

State Environmental Planning Policy (Resilience and Hazards) 2021

This 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 it has generally only been used for residential purposes. No concerns are raised that the site has been used for a listed purpose. Council is satisfied that the site is suitable for continued residential and hence is considered to be consistent with the requirements of the SEPP.

Canterbury Local Environmental Plan 2012

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

CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012			Compliance		
Clause	Standard / Requirement	Comment	Y	N	N/A
Part 1 Preliminary					
1.2	Aim of Plans		✓		
Part 2 Permitted or prohibited development					
2.3	Zone objectives and Land Use Table		✓		
2.7	Demolition requires development consent		✓		
Part 4 Principal development standards					
4.3(1)	Height of buildings	The proposed development is consistent with the objectives of the development standard, in particular objective (b) which reads: <i>to minimise overshadowing and ensure there is a desired level of solar access and public open space,</i>	✓		
4.3(2)	Height of buildings	Building height is measured at maximum of 8.23m.	✓		

CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012			Compliance		
			Y	N	N/A
	9m max building height				
4.4	Floor space ratio Max 0.5:1	Site = 763.8m ² Ground Floor = 215.3m ² Lower GF = 75.1m ² Outbuilding = 12.3m ² GFA = 302.7m ² FSR = 0.398:1	✓		
4.5	Calculation of floor space ratio and site area		✓		
Part 5 Miscellaneous provisions					
5.10	Heritage conservation	The subject site immediately adjoins No. 66 Undercliffe Road, which is listed as a heritage item under Schedule 5 – Environmental Heritage in the CLEP 2012. The development application was referred to Council’s Heritage Advisor who advises that the proposed development is acceptable, subject to recommended conditions of consent. Further discussion on the heritage impact of the proposal is provided later in this report.	✓		
Part 6 Additional local provisions					
6.1	Acid sulfate soils		✓		
6.2	Earthworks		✓		
6.4	Stormwater management		✓		

As summarised in the table above, the proposed development is consistent with the aims, objectives and development standards set out in the CLEP 2012. Specific regard has been had to the objectives of clause 4.3 of the LEP which seek, amongst other things, to '*minimise overshadowing and ensure there is a desired level of solar access*'. For the reasons discussed in greater detail later in this report, it is Council's view that the proposed development is consistent with this objective.

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 and is currently being reviewed by the Department of Planning. While the draft instrument proposes the introduction of some additional provisions, in the most part, the Draft CBLEP 2020 provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

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

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

The following clauses of the Canterbury Development Control Plan 2012 were taken into consideration:

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART B GENERAL CONTROLS			Compliance		
			Y	N	N/A
Clause	Standard / Requirement	Comment			
B1 Transport and Parking					
B1.1 General Objectives			✓		
B.1.2.2 General Parking Provisions					
C10	Car parking (and associated space such as access aisles) in excess of the requirements under the parking rates table in section B1.3.1 will be counted as gross floor area.	Proposed garage space is larger than the minimum parking requirement (i.e. 4m x 6m) and storage area to be included in gross floor area calculation.	✓		
B1.3.1 General Parking Rates					
C1	2 spaces per dwelling house	2 car parking spaces provided.	✓		
B1.4.8 Parking Requirements for Specific Land Uses					
C4	Where two car spaces are required for a dwelling house, dual occupancy and semi-detached dwelling, one may be provided on the driveway in front of a carport or garage (not applicable with basement car parking).	Car parking space provided on driveway forward of the garage roller door.	✓		
B2 Landscaping					
The proposed development is consistent with the relevant controls and objectives found in Chapter B2 – Landscaping in Part B of the CDCP 2012.			✓		
B3 Tree Preservation					
The proposed development is consistent with the relevant controls and objectives found in Chapter B3 – Tree Preservation in Part B of the CDCP 2012. The proposed development is found to be compliant with Council's Tree Management Order, subject to recommended conditions included at Attachment A			✓		
B5 Stormwater and Flood Management					
The development application was referred to Council's Development Engineer for assessment in relation to Chapter B5 – Stormwater and Flood Management in Part B of the CDCP 2012. The proposed development has been found to be compliant, subject to recommended conditions included at Attachment A			✓		
B8 Heritage					
The development application was referred to Council's Heritage Advisor for assessment in relation to Chapter B8 – Heritage in Part B of the CDCP 2012. The proposed development has been found to be satisfactory with respect to its heritage impact as			✓		

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART B GENERAL CONTROLS	Compliance		
	Y	N	N/A
discussed later in this report.			
B9 Waste Management			
The proposed development is considered to be consistent with the relevant controls and objectives found in Chapter B9 – Waste Management in Part B of the CDCP 2012.	✓		

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART C RESIDENTIAL ACCOMODATION			Compliance		
			Y	N	N/A
Clause	Standard / Requirement	Comment			
C1 Dwelling Houses and Outbuildings					
C1.1 General Objectives			✓		
C1.2.1 Minimum Lot Size and Frontage					
C1	Minimum 15m primary street frontage width	12.2m - see C7 below	✓		
C7	Nothing in this section prevents Council giving consideration to the erection of a dwelling house on an allotment of land which existed as of 1/1/2013.	Alterations and additions to an existing dwelling.	✓		
C1.2.2 Site Coverage					
C1	For sites with areas between 600m ² to 899m ² : Maximum 380m ² building footprint Maximum 60m ² outbuilding floor area Maximum 40% site coverage	Site = 763.8m ² Building footprint = 244.2m ² Outbuilding = 12.3m ² Site coverage = 31.3%	✓		
C1.2.4 Landscaping					
C1	For sites with areas 600m ² or above: Minimum 25% deep soil area	Deep soil = 204.3sqm i.e. 26.7%	✓		
C1.2.5 Layout and Orientation					
C2	Site the development to avoid casting shadows onto a neighbouring dwelling's primary living area, private open space and solar cells.	The alterations and additions towards the front of the existing dwelling have been designed to avoid unreasonable overshadowing of the living area and private open space of the immediate eastern and western adjoining properties. Further discussion on the solar access and overshadowing impacts of the proposal is provided later in this report.	✓		

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART C RESIDENTIAL ACCOMODATION			Compliance		
			Y	N	N/A
C1.3.1 Floor Space Ratio		Site = 763.8m ² Ground Floor = 215.3m ² Lower GF = 75.1m ² Outbuilding = 12.3m ² GFA = 302.7m ² FSR = 0.398:1	✓		
C1	Maximum 0.5:1				
C1.3.2 Height		2 storeys			
C1	Maximum two storeys Maximum 8m external wall height where height of building standards under the LEP is 9.5m Finished GF level does not exceed 1m above NGL	External WH = 16.08 – 10.9 = 5.19m BH = 18.26 – 10.9 = 7.36m Lower GF FFL = 10.5 – 10.46 = 40mm	✓		
C8	Max 3m retaining walls for garage on steep land Max 1m for all other land	Retaining walls and side fences to be stepped down to follow the slope of the land forward of the building line. Existing retaining wall on front boundary to be retained.	✓		
C9	Maximum 1m cut below ground level	Maximum 800mm cut proposed.	✓		
C11	Maximum 600mm fill	Fill < 600mm.	✓		
C1.3.3 Setbacks					
C2	For Dwelling Houses with frontage of 12.5m or less: Minimum 5.5m primary setback Maximum 2m recess for main entrance Minimum 900mm side setbacks Minimum 6m rear setback	5.5m front setback. Front entrance recess < 2m 1.192m eastern side setback. 1m western side setback. Rear setback < 6m.	✓		
C5	1m side and rear setback for swimming pools	1m rear and side setback proposed.	✓		
C6	Swimming pool must not be located within any front setback	Swimming pool located within the rear private open space.	✓		
C12	Maximum 1m side setback projection for minor building elements	Minor building element projections < 1m	✓		
C13	Maximum 1.5 front setback projection for elements that articulate the front elevation	Front balcony does not project more than 1.5m forward of the primary frontage.	✓		
C1.3.4 Building Separation		The first floor of the alterations	✓		

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART C RESIDENTIAL ACCOMMODATION			Compliance		
			Y	N	N/A
C1	<p>The following controls apply to alterations and additions to dwelling houses:</p> <p>(a) The top storey of any two-storey building should be designed, as a series of connected pavilion elements.</p> <p>(b) Pavilion elements shall have a depth between 10m to 15m.</p> <p>Articulate pavilion elements by an additional side boundary setback and identified by separate roofs.</p>	<p>and additions is designed as a series of connected pavilion elements with depths between 10m to 15m.</p> <p>Proposed side setbacks are greater than the minimum requirement.</p>			
C1.4.1 General Design		The front façade has been designed to provide a neutral impact on the adjacent heritage item at No. 66 Undercliffe Road.			
C1	<p>Contemporary architectural designs may be acceptable if:</p> <p>(a) A heritage listing does not apply to the existing dwelling or to its immediate neighbours.</p> <p>(b) The proposed addition is not visually prominent from the street or from a public space.</p> <p>(c) Extensive remodelling of existing facades is proposed in accordance with controls of this DCP.</p>	<p>The proposed two-storey addition is contained wholly within the lot boundaries and development controls regarding setbacks, heights, FSR and bulk and scale.</p> <p>The development application was referred to Council's Heritage Advisor who advises that the proposed development is acceptable, subject to recommended conditions of consent.</p>	✓		
C3	Access to upper storeys must not be via external staircase	No proposed external access to the first-floor addition.	✓		
C4	All dwellings must contain one kitchen and laundry facility.	Provided.	✓		
C9	A minimum of one habitable room must be oriented towards the street to promote positive social interaction and community safety.	The proposed development achieves this requirement.	✓		
C11	Design interiors to be capable of accommodating the range of furniture that is typical for the purpose of each room.	The proposed development achieves this requirement.	✓		
C12	Minimum 3.5m dimensions for	Minimum 3.5m dimensions.	✓		

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART C RESIDENTIAL ACCOMMODATION			Compliance		
			Y	N	N/A
	principal bedrooms				
C13	Minimum 3m dimensions for secondary bedrooms	Minimum 3m dimensions.	✓		
C14	Provide general storage in addition to bedroom wardrobes and kitchen cupboards.	The proposed development achieves this requirement.	✓		
C20	Articulation to be provided: 4m to 6m for street elevation 10m to 15m for side elevation	Articulation provided along front and side elevations.	✓		
C21	Avoid long flat walls along street frontages	Staggered elevations are proposed.	✓		
C1.4.2 Roof Design and Features		Maximum 20-degree roof pitch proposed.	✓		
C7	Maximum 30-degree roof pitch				
C1.5.1 Solar Access and Overshadowing		Combined 3 hours achieved via side elevation windows and skylight windows above the rear primary living areas.	✓		
C1	Minimum 3 hours solar access to primary living areas of proposed dwellings				
C2	Minimum 3 hours solar access to private open space of proposed dwellings	Combined 3 hours achieved to POS as it is not overshadowed by the proposed rear extensions.	✓		
C3	Proposed dwellings must comply with the following: (a) At least one living room window and at least 50% or 35m ² with minimum dimension of 2.5m (whichever is the lesser), of ground level private open space. (b) Receive a minimum of 3 hours sunlight between 8:00 am and 4:00 pm on 21 June. Where existing overshadowing by buildings and fences is already greater than this control, sunlight is not to be reduced by more than 20%.	The rear primary living area receives three hours of sunlight via skylights between 8am – 1pm as it is not overshadowed by the adjoining properties or the first-floor addition. At least 50% of the private open space retains three hours of sunlight throughout the day as it is not overshadowed by the adjoining properties or the first-floor addition.	✓		
C4	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 of neighbouring dwellings, and to 50% of their principal private open	Submitted shadow diagrams (in plan and in elevation) demonstrate that the proposed development would not unreasonably overshadow the west elevation primary living area window of No.	✓		

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART C RESIDENTIAL ACCOMODATION			Compliance		
			Y	N	N/A
	space.	<p>66 Undercliffe Road between 1pm – 4pm at the winter solstice (i.e. would retain three hours of sunlight to an acceptable proportion of the living area window).</p> <p>It is noted that in addition, there is an east-facing kitchen window that achieves solar access between 8am – 10am. This kitchen window would not be overshadowed by the proposed development.</p> <p>The front living areas of No. 70 Undercliffe Road would retain three hours of sunlight throughout the day as they would not be overshadowed by the proposed development between 8am – 2pm.</p> <p>50% of the private open space for No. 66 Undercliffe Road would retain three hours of sunlight between 8am – 1pm as it would not be overshadowed by the proposed development.</p> <p>50% of the private open space for No. 70 Undercliffe Road would retain three hours of sunlight between 10am – 4pm as it would not be overshadowed by the proposed development.</p>			
C5	If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.	The primary living areas in each of the neighbouring dwellings currently achieve three hours of sunlight.	✓		
C1.5.2 Visual Privacy		The proposed development is set back a minimum 1m from the western boundary and 1.192m from the eastern boundary.	✓		
C2	Minimise direct overlooking of rooms and private open space through the following: (a) Provide adequate building				

CANTERBURY DEVELOPMENT CONTROL PLAN 2012 / PART C RESIDENTIAL ACCOMMODATION			Compliance		
			Y	N	N/A
	separation, and rear and side setbacks; and (b) Orient living room windows and private open space towards the street and/or rear of the lot to avoid direct overlooking between neighbouring residential properties.	The existing living areas are being retained. The two-storey dwelling addition to the front of the site compromises bedrooms, bathrooms, a home office, entry foyer, and storage.			
C3	If living room windows or private open spaces would directly overlook a neighbouring dwelling: (a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or (b) Use windows that are less than 600mm wide or have a minimum sill height of at least 1.5m above the associated floor level.	The windows that directly overlook the neighbouring property do not achieve a minimum sill height of 1.5m above the finished floor levels and are more than 600mm wide. A recommended condition of consent is included at Attachment A, requiring these windows to be amended to provide a minimum 1.5m sill height.		✓	
C1.6.1 Fences					
C2	Maximum 1.2m high front fence within the front setback	1.2m high front fence proposed.	✓		
C5	Maximum 1.2m high front fence	1.2m high front fence proposed.	✓		
C1.6.2 Outbuildings and Swimming Pools					
C2	Swimming pools must not be located within any front setback.	The proposed in-ground swimming pool is located in the rear private open space.	✓		

As demonstrated above, the proposal is consistent with the objectives and development controls contained in the CDCP 2012. Further discussion is provided below with respect to solar access, visual privacy, and heritage assessment.

Solar Access to Neighbouring Development

The objectives of section C1.5.1 – Solar Access and Overshadowing are as follows:

- O1 To ensure habitable rooms have reasonable daylight access.*
- O2 To minimise overshadowing of primary living areas, private open space and solar roof top systems.*
- O3 To enable occupants to adjust the quantity of daylight to suit their needs.*

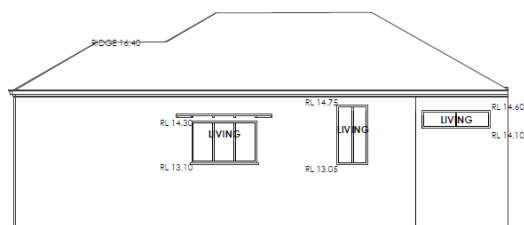
In addition, control C4 of C1.5.1 reads as follows:

- C4 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.*

To the immediate east of the subject site, at No. 66 Undercliffe Road, is an existing single-storey dwelling that is heritage listed per Schedule 5 – Environmental Heritage of the CLEP 2012. Located at the front of this dwelling are two bedrooms with front (i.e. north) facing windows. To the rear of the dwelling are open-plan style living areas (including a kitchen and a dining room), another bedroom, and a bathroom. These rooms have with side and rear facing windows that face out to the east and west (i.e. to the side boundaries) and to the rear.

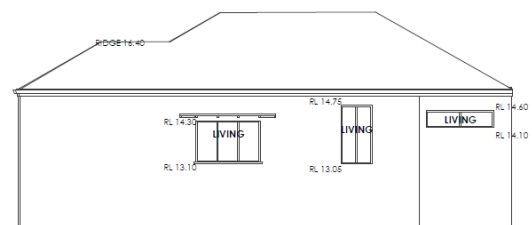
The “primary living area” is considered to be the northern-most living room. This room contains one window, which is located on the western elevation and comprises three window panes with a small exterior shading device attached above its header. It is noted that there is no definition of “primary living area” in the CDCP 2012.

The applicant has submitted elevational shadow diagrams between 8am – 4pm during the mid-winter solstice, demonstrating existing vs proposed shadow impacts on the living area windows on the western elevation of No. 66 Undercliffe Road. These diagrams have been certified as being accurate by a registered surveyor acting on behalf of the applicant and are reproduced below.



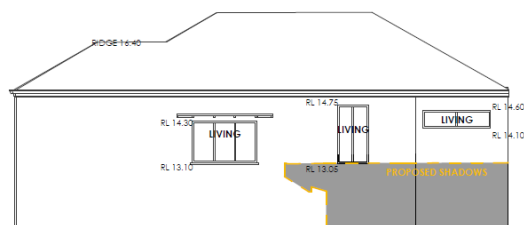
NO PROPOSED SHADOW IMPACT
NO EXISTING SHADOW IMPACT

66 UNDERCLIFFE RD, EARLWOOD - 12pm



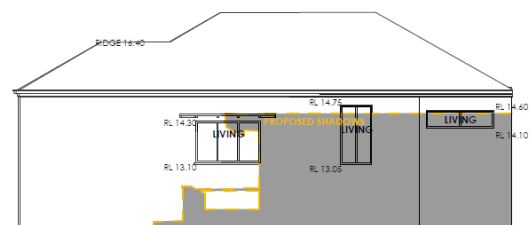
NO PROPOSED SHADOW IMPACT
NO EXISTING SHADOW IMPACT

66 UNDERCLIFFE RD, EARLWOOD - 1pm



PROPOSED SHADOW IMPACT
NO EXISTING SHADOW IMPACT

66 UNDERCLIFFE RD, EARLWOOD - 2pm



PROPOSED SHADOW IMPACT
NO EXISTING SHADOW IMPACT

66 UNDERCLIFFE RD, EARLWOOD - 3pm

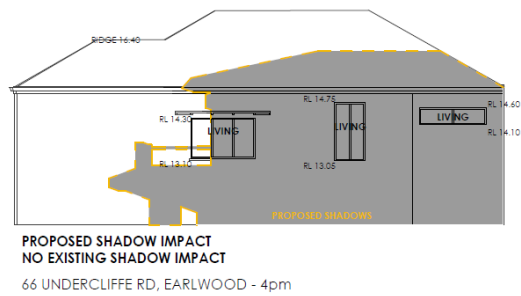


Figure 4: Elevational Shadow Diagrams Source: Architectural Plans Issue F

As can be seen in the diagrams provided above, the proposed alterations and additions will begin casting shadows on the western elevation of No. 66 Undercliffe Road at 1pm. Additional overshadowing of the primary living area window, at the mid-section of the western elevation, begins at 3pm. It is noted that the elevational shadow diagrams have been reviewed by a registered surveyor and have been certified to be accurate and correct.

Due to the orientation of No. 66 Undercliffe Road, the primary living area window does not receive solar access until 1pm and onwards. An inspection of this dwelling undertaken at 1:22pm on 14 July 2022 identified sunlight entering the room at this time. The sunlight would then run across the southern wall of the living room, and eventually provide solar access towards the eastern wall.

While the proposed development would cast additional overshadowing at 3pm, there would still be sunlight access to the living room as the western window would not be wholly overshadowed between 3pm to 4pm (one-third of the window would still be receiving solar access at 4pm). In this regard, the living area in question would receive three hours of continuous sunlight between 1pm – 4pm during the mid-winter solstice.

Furthermore, the rear kitchen achieves reasonable daylight access via an eastern facing window. This eastern kitchen window is not impacted by the proposed development. It is noted that while the kitchen is not expressly included in the solar access requirements of the development control (given that its status as a 'living area' is arguable), the kitchen forms part of an open plan living space that links with a living room that is located on the western side of the building (and which is served by the middle of the three windows located on the western elevation). The proposed development would provide a combined five hours of reasonable sunlight amenity across all habitable living areas of No. 66 Undercliffe Road.

In addition, the proposed development would not result in the neighbouring private open spaces achieving less than 3 hours of sunlight. The private open space of No. 66 Undercliffe Road receives sunlight between 8am – 2pm and the private open space of No. 70 Undercliffe Road receives sunlight between 10am – 4pm. In this regard, the proposed development is consistent with objectives O1 and O2 of the development control.

In consideration of the Land and Environmental Court Planning Principles in relation to access to sunlight, solar access calculations with regard to the orientation of the site and position of the sun have historically relied upon a 22.5° horizontal sun angle to determine 'effective sunlight'. Although this element of the planning principle has been superseded, for completeness it still has been taken into consideration. The orientation of the neighbouring properties and existing dwellings along the southern side of Undercliffe Road do benefit from the afternoon sun, however even at 12pm solar access is not achievable to any western elevation windows due to the sun's oblique angle and the presence of eaves and the external shading device above the window. As discussed above, the primary living area window would receive sunlight from 1pm. At this time, the horizontal sun angle generally accords with that set out in the former planning principle. It is also noted that this is an existing situation for the window in question, and the proposed development would not have any bearing or impact on this.

Notwithstanding, the planning principle further notes that while there is an expectation for low density developments to achieve reasonable levels of sunlight, it is recognised that there are sites within low density environments that can be highly vulnerable to being overshadowed. No living areas of No. 66 Undercliffe Road receive sunlight from north facing windows. The primary living area windows are located on the western elevation, almost at the mid-point of the building envelope, and the remaining living area windows are on the side elevation and by design are vulnerable to overshadowing impacts from any future two-storey developments adjacent to the property.

Visual Privacy

Control C3 of C1.5.2 Visual Privacy reads as follows:

- C3 If living room windows or private open spaces would directly overlook a neighbouring dwelling:*
- (a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or*
 - (b) Use windows that are less than 600mm wide or have a minimum sill height of at least 1.5m above the associated floor level.*

The east facing windows of Bedroom 1 and its ensuite, the entry foyer, home office and storage area overlook the living and dining rooms of No. 66 Undercliffe Road and as such fail to comply with the development control.

A recommended condition of consent is included at Attachment A requiring that eastern elevation windows WG2, WG3, WL2, WL3 and WL4 to the first floor Bedroom 1 and ensuite, ground floor foyer, home office and basement are to be amended with 1.5m sill heights above the finished floor level, per the requirements of C3 of C1.5.2 Visual Privacy in Chapter C1 of the CLEP 2012.

Heritage

The subject site adjoins a heritage item (66 Undercliff Road) to its immediate east. The development application was referred to Council's Heritage Advisor for assessment in relation to Schedule 5 Environmental Heritage of the CLEP 2012 and Chapter B8 – Heritage in Part B of the CDCP 2012. Council's Heritage Advisor has reviewed the amended plans, the Applicant's Heritage Impact Statement, and the independent Heritage Impact Statement submitted by the owners of No. 66 Undercliffe Road.

With regards to Council's Heritage Advisor's assessment, the following comments, but not limited to, are provided:

- *"It is noted that the appearance and presentation of no. 68 will change by virtue of the proposed development, however I am of the opinion that the proposed changes are not to the extent that there would be an adverse impact on the significance and character of the adjacent heritage listed property."*
- *"The proposal seeks approval for a two storey development that is contained wholly within its lot boundaries and of a building typology (ie: residential) consistent with the zoning and future character of the area."*
- *"The proposal provides a 5.5m front setback at ground floor and 6.1m/7.2m setback to the first floor (excluding balcony), all of which comply with Council's controls and to which is consistent with the established front setback of the heritage item. It is noted that by bringing the development forward some views along the western end of the site may be obscured, however this would be to the side/western elevation of the building/driveway to which existing vegetation already obscures the dwelling. The building, by virtue of its design and embellishment was for all intents and purposes designed to be viewed from the front (and not in the round) to which the most significant views will be retained. The heritage item will still remain discernible in its garden setting and its heritage significance."*
- *"The overall height of the proposal at its apex is 1.86m higher than that of the heritage item which is a fair, reasonable and acceptable outcome for the heritage item."*
- *"The proposal adopts a gable roof with a material palette of painted weatherboards and face brick which is considered to be of a neutral impact on the adjacent heritage item."*

It has been recommended by Council's Heritage Advisor that the proposal be supported from a heritage point of view, with a condition to be placed on the development consent requiring that the eastern boundary fence be stepped down to follow the slope of the land forward of the building line.

In addition, the materials and finishes and front façade design have been assessed against Chapter C1 – Residential Accommodation of the CDCP 2012 and are found to be compliant with the relevant controls and objectives. The overall bulk and scale has been improved by increasing the setback of the first floor and reducing the height of the building. In addition, the main entrance on the first floor has been deleted and the external staircase removed. In this regard, the proposed development is not considered to impact the heritage amenity of the streetscape and would not detrimentally impact the existing treatment or heritage significance of No. 66 Undercliffe Road.

It is noted that the proposed development would not set a precedent for the immediate locality of the site, as the proposed development remains compliant with the development controls and objectives of CDCP 2012.

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

A planning agreement has not been entered into under Section 7.4 of the *Environmental Planning and Assessment Act 1979*, nor has the applicant offered to enter into a draft planning agreement.

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

The proposed development is consistent with the relevant provisions contained in the *Environmental Planning and Assessment Regulation 2021*.

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

The proposed development would have acceptable impacts on the surrounding locality. Additionally, as detailed in this report, the proposed non-compliance with the visual privacy DCP controls is sufficiently addressed via recommended conditions of consent. As such, it is considered that the impact of the proposed development on the surrounding locality is acceptable.

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

The site is considered suitable for the proposed development. The development results in an appropriate built form for the site, which is consistent with the existing and desired future character of the locality as reflected in CLEP 2012 and CDCP 2012. In addition, the proposed design is considered to have an acceptable impact on the streetscape, and will not detract from the heritage amenity of the immediate locality.

Submissions [section 4.15(1)(d)]

The application was notified once for a period of 14 days between 15 June 2022 to 28 June 2022. A total of 35 submissions from 20 separate properties, including a number of pro-forma letters were made in relation to overshadowing, heritage, visual and acoustic privacy, bulk and scale, streetscape impact, insufficient and inaccurate information, building height, storey limit, floor space ratio, site and deep soil coverage, and building design.

Overshadowing Impacts

Proposed development overshadowing impacts

- *The sandstone cottage at No. 66 Undercliffe Road and the existing dwelling at No. 70 Undercliffe Road will be overshadowed by the proposed building heights. In a time when the need to transition to optimize natural energy sources is urgent,*

developments *MUST* allow for appropriate natural light to dwellings and consider the amenity of neighbours, not just the development applicant.

- The proposed development will overshadow a very beautiful heritage cottage next door at No. 66 Undercliffe Road, one that has been a key feature of Undercliffe Road for many decades, and indeed is one of the few existing examples of the area's sandstone heritage.
- The proposed development will deprive No. 66 Undercliffe Road of sunlight and result in loss of western afternoon sunlight to No. 66 Undercliffe Road
- There is heritage listed sandstone cottage immediately adjacent to No. 68 Undercliff, which will be completely and unreasonably overshadowed by the proposed bulky building.
- The primary living area window is further overshadowed by the gutter and roof outcrop of No. 66 Undercliffe Road as the sun is overhead and as such an extreme angle as to have little effect to the primary living area and sandstone wall. There is absolutely no way to assert that sunlight will be achieved into the primary living area at this time and until 2pm. The sun just isn't at an angle of benefit yet, and as stated above.
- The proposed development will swamp and overshadow a very beautiful heritage cottage, one that has been enjoyed looking at for many years. No. 66 Undercliffe Road will lose sunlight on the Western elevation windows and the main living area. Light, especially in a sandstone property, is very important.
- The main living areas of No. 66 Undercliffe Road will be completely overshadowed and would not receive 3 hours of sunlight through the western elevation window.
- The proposed development will result in No. 66 Undercliffe Road not achieving 3 hours of direct sunlight, which will not be enough to keep sandstone dry and mould free on the Western elevation.
- The primary living room window only starts receiving sunlight at 2pm onwards.
- No. 66 Undercliffe Road has a south facing garden and as such depends on Northwestern sunlight for the garden at the back to thrive. A large part of our garden which is planted out and an essential and beautiful part of the heritage property will suffer from lack of sunlight. The hedging along my Western border for the purpose of visual privacy will die. The garden gets minimal morning light due to the proximity of 64 Undercliffe Road on our east boundary. The Northwestern sunlight feeds it. The garden is an important part of the heritage listing.
- The proposed development will overshadow the back verandah of No. 66 Undercliffe Road. It is noted that that back verandah does not receive morning sun due to the house layout and being south facing.
- No. 66 Undercliffe Road is predominantly dark, and only has two small windows on the eastern elevation where morning sun is scarce. As such, the sandstone is cold especially in winter and due to the nature of the stone is difficult to heat. The propose development will overshadow the sandstone dwelling which requires to remain dry and damp free
- There are currently no solar power systems installed on No. 66 Undercliffe Road. Future solar power system installation would be on the Western roof of the existing dwelling as it receives the most sunlight.

- *Access to a reasonable amount of light is very important for individuals' mental and physical wellbeing and is a fundamental human right.*
- *No. 66 Undercliffe Road will lose virtually all her light on the Western elevation, which is already overshadowed by the cliff at the rear. No. 66 Undercliffe Road is already extremely dark.*
- *The proposed development would almost completely overshadow the adjacent houses apart from a small window in the early afternoon. This would undermine the solar access enjoyed by the residents, and hence their thermal comfort and access to solar PV generation.*
- *The proposed development will have major impacts on the solar access of No. 66 Undercliffe Road, which, in an era in which passive solar design and access to sunlight for solar panels is becoming critical, should be prevented.*
- *The proposed alterations to the back roof/pavilion of the BBQ area will overshadow the back shed and garden of No. 66 Undercliffe Road during afternoon. It is recommended that these alterations be deleted to achieve afternoon sunlight into these areas.*
- *While there is no direct shadow impact from the proposed structure at No. 68 Undercliffe Road between the hours of 12 - 2PM, there is also absolutely no useable sunlight at this time by any standard or definition, as the sun is at or near its apex and is almost directly over the house. The pictures provided in the letter and email submissions demonstrate that neither the sandstone wall nor interior living areas are getting any direct sunlight what-so-ever in this time frame.*

Insufficient information and inaccuracy of shadow diagrams and architectural plans

- *The shadow diagrams and architectural drawings are unclear and do not show whether the new roof alterations will cause shading. The architectural drawings imply that the roof will join to the current back shed but as that shed boundary is within the setback it will encroach.*
- *The amended architectural plans show that No 66 Undercliffe Road still does not receive a minimum three hours of sunlight by any definition of useable solar access. It is recommended that the proposed development be amended to lower the roof line, be setback further, or delete the second-storey element, especially as no-one in the street is happy with such a giant protrusion into the street-scape.*
- *The submitted and amended shadow diagrams are inaccurate and does not indicate the correct details, existing shade lines, wall thickness, shading devices and function of the western elevation windows.*
- *The shadow diagrams are inaccurate and do not take into consideration the sandstone structure and depth of the window sill.*
- *The main living room of No. 66 Undercliffe Road has been incorrectly labelled and identified on the shadow diagrams. The diagrams are not correct in calling this a bedroom.*

Comment:

The submitted and amended shadow diagrams and architectural plans have been assessed against the solar access requirements of Part C Residential Accommodation of the CDCP 2012.

The applicant amended the proposed development by reducing the height of the roof line to 7.36m above natural ground level and setting back the first-floor front building line by reducing the size of Bedroom 1. As a result of the amendments, the proposed development would not overshadow primary living area western elevation window between 1pm – 3pm. Earlier analysis contained in this report has concluded that there will be an acceptable degree of overshadowing to this window between 3pm – 4pm. An assessment of the overshadowing between 3pm – 4pm shows that there would be sufficient sunlight depth achieved to the living room. As such, the primary living room receives a minimum three hours of sunlight as required by the CDCP 2012.

Furthermore, the depth of the living area windows sill and thickness of the external sandstone building walls has been considered in Council's solar access assessment. It is concluded that the orientation of the adjoining dwelling and angle/position of the sun would not provide sufficient sunlight into the western living areas at 12pm. The sunlight between 12pm to 1pm on the western elevation has been excluded from the solar access calculations.

In addition to the above, the applicant has amended the shadow diagrams to indicate the 3-pane living room window, and also show the awning/shading device located directly above this window, as well as the gutter protrusion of the neighbouring property. These elements have all been considered in the solar access assessment. As noted earlier in this report, the shadow diagrams (in plan and elevation) have been reviewed by a registered surveyor and concluded to be accurate and correct in relation to shadows cast by the proposed development.

It is further noted that the private open spaces of No. 66 and No. 70 Undercliffe Road would still benefit from direct morning and afternoon sun respectively, as these spaces are not overshadowed by the proposed development for a continuous three hours. As such, at least 50% of the private open spaces of the immediate adjoining lots receive a minimum three hours of solar access.

Furthermore, the living areas of No. 70 Undercliffe Road would retain a minimum three hours of sunlight throughout via north-facing windows. The proposed development only overshadows No. 70 Undercliffe Road between 8am – 10am. The living areas would not be impacted by the proposed development between 10am – 4pm in accordance with the shadow diagrams.

In regard to the assessment and discussions presented above, the proposed development is considered to be compliant with C1.5.1 Solar Access of the CDCP 2012 and is therefore worthy of support.

Heritage

- *The applicant has not submitted an Heritage Impact Statement, this has not been made available.*
- *The sandstone house next to the proposed development is a heritage item. The proposed home design, with its tall roof, built as far as possible to the front of the block, lack of garden or greenery, and aesthetic design which is dominated by the side view of a stairway, does not appear to be sympathetic to the heritage home located next door. As such, the proposed development would diminish the importance of this heritage home on the streetscape and overshadow the heritage item.*
- *The proposed development will over shadow a very beautiful heritage cottage, one that has been enjoyed looking at for the 22 years. In the sea of modern concrete, bland and generally uninspiring large blockish houses that has gradually spread over our suburb replacing important heritage buildings, the cottage at number 66 is a rare and lovely reminder to the history of the immediate locality, particularly the fact that it was made with sandstone from the quarry that created the cliff that we all live underneath.*
- *The heritage and aesthetics of our street are very valuable and should be preserved. Therefore, we are looking forward to Council protecting the heritage of the buildings of our lovely suburb, particularly those which are rare and highly valued by residents*
- *The proposed development has disregard for heritage principles that apply to the much-admired neighbouring property at 66 Undercliffe Road.*
- *The proposed development will hinder the sunlight of No. 68 Undercliffe Road*
- *Council should take into account the scale and aspect of the surrounding houses as they consider what an appropriate development for this site should be.*
- *Should this proposal go ahead it will set a very poor precedent not only in terms of street frontage and heritage properties in this street, but for the whole municipality. I am sure you agree that the heritage of Undercliff Road and the immediate locality is precious, and something to be preserved rather than destroyed.*
- *This development is out of proportion to the two adjacent houses, both of which have historical significance, particularly No. 66 Undercliffe Road, which is heritage listed. Both were built by the Schwebel family, an important family in the history of both Marrickville and Undercliffe and deserve a better context than the dominating two storey structure proposed.*
- *We request with respect, that this issue be elevated to a planning committee hearing as the potential damage to this heritage item, and the building at Number 70 Undercliffe Road, which we now find out from Dr Bronwyn Hanna, is of historical significance, will be devastating if this DA is allowed to proceed without absolute scrutiny. If this is impossible then I request you refuse this DA, as its damaging to a heritage item and the fibre and makeup of the South streetscape of Undercliffe Road, as it sets a dangerous and new precedent for floor space ratio, one which the residents of the street are not happy with.*
- *The development is also not congruent with the designs of other homes in the area. The majority of homes on Undercliffe road are setback from the street, are a cottage, California bungalow, or 70s home design, and have large established garden areas. The proposed home design is very different and is perhaps not complementary to these neighbouring houses.*

Comment:

The applicant has submitted a Heritage Impact Statement report which has been reviewed by Council's Heritage Advisor. In addition, Council's Heritage Advisor has considered the independent Heritage Impact Statement submitted by the owners of No. 66 Undercliffe Road and the requirements of Chapter B8 – Heritage in Part B of the CDCP 2012. It has been concluded by Council's Heritage Advisor that the proposal is worthy of support and would not detract from the existing streetscape and heritage amenity of the immediate locality.

In addition, the materials and finishes and front façade design have been assessed against Chapter C1 – Residential Accommodation of the CDCP 2012 and are found to be compliant with the relevant controls and objectives. The proposed design of the two-storey addition would not be inconsistent with the objectives and development controls, but rather remain sympathetic and consistent with the streetscape.

It is further noted that the applicant has amended the design by reducing the setback of the first floor and reducing the height of the building. It has been concluded that these amendments further contribute in reducing the overall bulk and scale of the proposed development. Furthermore, the applicant has amended the proposed development to delete an external staircase access on the front elevation, and also removed the main entrance originally proposed on the first floor. In this regard, the proposed development as amended is compliant with the requirements of Chapter C1 – Residential Accommodation of the CDCP 2012.

The amended design achieves the minimum primary and side setbacks, improves the building height by reducing the roof line, and designs a main entrance on the first floor. As such, the proposed development remains compliant with the relevant controls of Chapter C1 Residential Accommodation of the CDCP 2012.

It is noted that the proposed development would not set a precedent for the immediate locality of the site, as it remains compliant with the development controls and objectives of CDCP 2012 (subject to a recommended amending condition of consent to raise the sill height of some windows).

Height and Storey Limit

- *Although within council controls, the impact of that extra size will dwarf both of our houses, particularly because it is set forward, and its verandah encroaches into the 5.5 metres allowed, including an outside staircase and portico which reaches to the front border. The new building will thus protrude further out than both its neighbours and visually dominate the streetscape. I argue that the heritage listing will be damaged by such a protrusion.*
- *The overall proposed development will be too obtrusive.*

- *I am deeply concerned about the bulk and height of this building, and the impact it will have on the neighbours including removing the main light source to no 66, a heritage building with controls that preclude insertion of skylights.*
- *I feel that the proposed front height and setback will dominate the street scape and will overshadow this rather special historical sandstone cottage.*
- *The streetscape will be adversely impacted by a two storey building built too far forward on the block.*
- *The size of the development needs to be scaled back. It should be one storey rather than two at the front of the property.*

Comment:

The proposed development as amended remains compliant with the building height requirements of the CLEP 2012 and CDCP 2012. In addition, the proposed development has been amended to delete external staircase access and first floor main entrance. The reduced building height has improved the solar access to the main living room of No. 66 Undercliffe Road.

The proposed two-storey addition is permissible with the maximum storey limit as prescribed in the CLEP 2012 and is also consistent with the aims and objectives of Zone R2 Low Density Residential Development.

Floor Space Ratio, Site Coverage and Deep Soil Calculations

- *Technically the FSR is compliant with the inclusion of the cliff area, but since it is actually unbuildable or uninhabitable land, I would like council to take this into consideration.*
- *This build is huge. It's contrary to the guild-lines of the DCP and LEP. The cliff is not able to be built on, why is it allowed in the FSR? Title says the block is 758.7 however they are saying the site is 763.8 by calculation. This area was not surveyed. Please can this be checked? Why is a cliff allowed as deep soil? This is a dangerous precedent for the street. Over development on the South side is already causing huge concern amongst residents on the North side of street,*
- *Deep soil calculations cannot take into consideration the rock cliff face and as such will not meet the deep soil requirements.*
- *The site coverage is enormous and the site cannot sustain this*

Comment:

The gross floor area has been calculated in accordance with the definition of gross floor area prescribed in the CLEP 2012. The FSR calculated for the proposed development is 0.398:1 and is compliant with the maximum FSR of the subject site as prescribed in the CLEP 2012. In addition, the proposed site coverage does not exceed the maximum 40% requirement in the CLEP 2012 and achieves the minimum 25% deep soil requirement for sites with lots greater than 600m².

The rock cliff face and rear of the lot remains part of the subject site and is not listed as any exclusion under any requirements of the CLEP 2012 or CDCP 2012. It is therefore appropriate and accurate to include this area in the total site area for FSR, site coverage, and deep soil calculations.

Visual Privacy

- *The proposed windows on the North east side of the building will look down and upon our main living area. From the ground floor and from the master bedroom. The eastern bathroom window looks down into our dining room and potentially our back verandah. The new windows, are at significantly higher heights, allow for overlooking into our houses/gardens. Even if they install privacy screens, that does not ensure our privacy but only theirs.*
- *All the windows on their East, (our West). including the hair dressing salon WL3, (called home office), in the lower story look into our living areas.*
- *Their bedroom looks directly down into our living room. WG2.*
- *The East side of their front North facing verandah looks into our property.*
- *A hairdressing salon, WL3 (now called an home office), is directly outside our living room window. The noise of hairdryers and chatter from the salon will disturb our living areas.*

Comment:

A recommended condition of consent is included at Attachment A, requiring that eastern elevation windows WG2, WG3, WL2, WL3 and WL4 to the first floor Bedroom 1 and ensuite, ground floor foyer, home office and basement to be amended with 1.5m sill heights above the finished floor level, per the requirements of C3 of C1.5.2 Visual Privacy in Chapter C1 of the CLEP 2012.

Acoustic Privacy

- *The proposed pool filter should be installed underground or away from the cliff face and boundary lines to avoid noise pollution.*

Comment:

A recommended condition of consent is included at Attachment A, requiring that the pool filter and associated pool equipment must be located underground or away from the rock cliff face and boundary lines. In addition, the following condition is also recommended:

"The use of the pool / spa filter equipment must not give rise to offensive noise as defined in the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2000. All noise emitting equipment must be housed in an insulated enclosure or appropriately positioned so as to cause no nuisance to neighbours."

Primary Setback and Streetscape

- *The proposed 5.5m primary and front verandah, external staircase and portico that encroach into that primary setback creates additional visual bulk along the streetscape. This is not in keeping with the scale of our heritage building. It will extend further than the front of our house.*
- *The Statement of Environmental Effects only responds to the setback of the immediate two houses and not to the overall street scape.*
- *Setback encroachment from top floor verandah and portico. These are still extending into the 5.5 metres setback despite heritage requesting otherwise.*
- *The front setback must take into account any placement of front balcony, Driveway, security/sensor lighting and how this affects the overall streetscape.*
- *The proposed development and setback does not take into consideration the checkerboarding of the streetscape, particularly the established dwellings on the southern side of Undercliffe Road.*
- *The proposed development will reverse the current setback nature and will obscure the visual and cultural impact of No. 66 Undercliffe Road.*
- *The streetscape of No. 66 Undercliffe Road should be protected and not overwhelmed by adjacent developments*
- *The proposed development will not preserve the existing streetscape appearance of Undercliffe Road.*
- *The proposal presents a bulk to the street that is out of character, with houses immediately adjacent to it as well as to the overall streetscape*
 - *The proposed development is large and bulky and inappropriate with the streetscape*

Comment:

Council has taken into consideration the varied streetscape and setbacks along the southern side of Undercliffe Road in relation the proposed primary setback. It is noted that while there is an established pattern of alternating primary setbacks, the proposed development complies with the minimum front setback requirement of the CLEP 2012. The two-storey addition would be consistent with the front setbacks of the immediate adjoining properties and would not detract from the streetscape. Further, the proposed development, along with No. 66 and No. 70 Undercliffe Road, would mirror the consistent primary setbacks as seen on the opposite side of the street i.e. the north side of Undercliffe Road. The proposed development would not detract or reverse the visual and cultural impacts of the streetscape. In addition, Council's Heritage Advisor notes that the proposed development is worthy of support as it would not impact the significant views, nor would it be in conflict with the garden setting and heritage significance of No. 66 Undercliffe Road and the streetscape.

In addition, the following conditions of consent are recommended regarding the installation and use of any lighting and security systems:

“Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – ‘The Control of the Obtrusive Effects of Outdoor Lighting’.”

“Any lighting of the premises must be installed and maintained in accordance with AS/NZS 4282-2019, ‘Control of the obtrusive effects of outdoor lighting’, to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council’s discretion if Council considers there to be adverse effects on the amenity of the area.”

Bulk and Scale, and Design

- *There are concerns that the likelihood of such a bulky and overwhelming development impacting the amenity and garden use of No. 66 Undercliffe Road.*
- *The submitted Statement of Environmental Effects is misleading as the bulk and scale of the proposed DA, although within Council controls, is significantly greater than existing and neighbouring buildings and especially not in scale with our heritage listing at No. 66 Undercliffe Road.*
- *There are no properties set to the North of this bulk and scale, and especially this close to the front boundary.*
- *The proposed development is bulky as it will be built on most of the land*
- *The proposed development is not compatible with the character of the immediate locality.*
- *The proposed development which will present an enormous bulk to the street that is out of character with the other houses on the street, many of which retain heritage features, including the adjacent heritage listed sandstone cottage and many federation and arts and crafts houses which also include sandstone carved from the cliffs above.*
- *The proposed development is an overdevelopment of the site*
- *The size and design of the proposed development is unsensitive and unfitting for the street scape and the neighbourhood and heritage of Earlwood.*

Comment:

The proposed development is compliant with FSR, height of buildings, primary and side setbacks, site coverage and deep soil requirements as prescribed in the CLEP 2012 and CDCP 2012. In addition, the proposed alterations and additions are maximum two-storeys and permissible under the maximum storey limit as prescribed in the CLEP 2012. In this regard, the proposed development would not detract from the local amenity of the streetscape regarding bulk or scale, nor would it be inconsistent with the character of the immediate locality.

In addition, the proposed development design would not be considered to be out of character with the other houses along the southern side of Undercliffe Road.

Retaining Wall and Boundary Fencing

- *There is a lattice fence already in place, covered in mature star jasmine outside the dining room window of No. 68 Undercliffe Road, and the ground is sandstone paving, however there is inconsistency with the plans regarding the high colour bond fence / retaining wall notation on architectural plans.*
- *Colour bond is not allowed on a heritage boundary based on the DCP.*
- *Why is a fence and retaining wall being planned without consultation with neighbours?*

Comment:

Council's Heritage Advisor has recommended a condition of consent regarding the retaining wall and boundary fencing forward of the front building line, which reads:

"The eastern boundary fence shall step down to follow the slope of the land forward of the building line to meet the height of the front boundary fence. The fence shall be of masonry construction painted to match the dwelling. Further, the retaining wall is to step down to the height of the front fence."

Furthermore, a condition is recommended which requires:

"Replacement fencing (where applicable) must be 1.8 metres high unless otherwise shown on the approved plans or as stipulated within this determination notice. The materials and colours of the fence must be selected in consultation with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than 1.2 metres high. All costs related to fencing must be borne by the consent holder."

Tree Removal

- *There is a very old frangipani tree on our border which we look onto from our living and dining room. The tree is at least 60 years old. Even though not on our property it's within the set back. I notice the trunk of the tree is 3 metres from the current corner of Mr Panagopoulos' property. I would ask that his renovation take this tree into account and that he work out a design that can build around it. It's part of the street scape and part of the charm of our heritage listing and should be preserved if at all possible.*

Comment:

A condition has been placed on the development consent for the frangipani tree on the subject site to be removed in accordance with B3 Tree Preservation requirements of the Part B General Controls of the CLEP 2012.

Building Work

- *No. 66 Undercliffe Road will be compromised by the building works.*
- *Any excavation or building adjacent the heritage item threatens to de-stabilize the structure, which is built on sandstone blocks. Who is liable for cracking and any damage to the foundations that could occur due to building works so close by? Will this be the council?*

The following recommended conditions of consent, requiring a dilapidation report before, during and after construction and building works, are included at Attachment A:

“Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owners at property No. 66 Undercliffe Road, is provided with a copy of the dilapidation report for their property no less than 14 days before the commencement of any site or building works.”

“Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier’s satisfaction that all reasonable steps were taken to obtain access to the adjoining property at No. 66 Undercliffe Road

A photographic survey must be prepared of the adjoining properties at No. 66 Undercliffe Road detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the certifier and Canterbury Bankstown Council if Council is not the certifier, before the issue of the relevant construction certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the principal certifier and Canterbury Bankstown Council if Council is not the principal certifier. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.”

“Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- a. After comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and*

- b. *Where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.*

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property No. 66 Undercliffe Road."

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

The proposed development would not contravene the public interest. It responds appropriately to the objectives and provisions set out in the applicable environmental planning instruments, as well as the objectives and development standards contained in the Canterbury Local Environmental Plan 2012 and the development controls contained in the Canterbury Development Control Plan 2012. Matters raised in the public submissions have been satisfactorily addressed, and there would be acceptable impacts on the immediate locality and the surrounding context of Undercliffe Road.

CONCLUSION

DA-402/2022 has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, and against the provisions contained in the applicable environmental planning instruments, development control plans, and policies.

The proposed development would result in an appropriate built form for the site which is consistent with the existing and likely future character of the wider locality. The applicable development standards and controls have been adequately addressed and all submissions have been taken into careful consideration.

CONDITIONS OF CONSENT

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

1. Approved Development.

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

Plan Number	Plan Name	Dated	Revision	Prepared By
02	Demolition Plan	4/10/2022	E	Design Studio 407
03	Proposed Lower Ground Floor Plan	4/10/2022	E	Design Studio 407
04	Proposed Ground Floor	4/10/2022	E	Design Studio 407
05	Proposed pool and backyard	4/10/2022	E	Design Studio 407
06	Proposed Site and Roof Plan	4/10/2022	E	Design Studio 407
07	Proposed North Elevation	4/10/2022	E	Design Studio 407
08	Proposed East Elevation	4/10/2022	E	Design Studio 407
09	Proposed South Elevation	4/10/2022	E	Design Studio 407
10	Proposed West Elevation	4/10/2022	E	Design Studio 407
11	Proposed Sections	4/10/2022	E	Design Studio 407
12	Proposed Pool and Backyard Sections	4/10/2022	E	Design Studio 407
20	Proposed Fence Elevation and Plan	4/10/2022	E	Design Studio 407
22	Schedule of Finishes	4/10/2022	E	Design Studio 407

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

- a. The eastern boundary fence and retaining wall shall step down to follow the slope of the land forward of the building line to meet the height of the front boundary fence. The fence shall be of masonry construction painted to match the dwelling.
 - b. The eastern elevation windows WG2, WG3, WL2, WL3 and WL4 to the first floor Bedroom 1 and ensuite, and ground floor foyer, home office and basement are to be amended with 1.5m sill heights above the finished floor level, as marked in red on the plans.
- 1.3. Replacement fencing (where applicable) must be 1.8 metres high unless otherwise shown on the approved plans or as stipulated within this determination notice. The materials and colours of the fence must be selected in consultation with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than 1.2 metres high. All costs related to fencing must be borne by the consent holder.

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

- 2.1. Development Contributions of \$4,990.00 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.

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

- 2.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate. Development contribution amounts are non-refundable if you do not proceed with your development.

- 2.3. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. The long Service levy is calculated to be 0.35% of the total cost of the building and construction work. Payment is not required where the value of works is less than \$25,000. Payment can be calculated using the Levy Portal [Calculator at https://longservice.force.com/bci/s/levy-calculator](https://longservice.force.com/bci/s/levy-calculator). Payment must be made via the [Long Service Levy Portal at https://www.longservice.nsw.gov.au](https://www.longservice.nsw.gov.au).
- 2.4. 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.
- 2.5. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.
- Refer to www.sydneywater.com.au/tapin for Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN™.
- Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.
- 2.6. Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water. Details must be submitted with the application for a construction certificate and be approved by the certifier before the issue of a construction certificate.
- 2.7. The development must be carried out in accordance with the commitments shown on the submitted BASIX Certificate. The BASIX commitments must be reflected in the construction certificate plans and specifications. Any proposed changes to the BASIX commitments after the construction certificate has been issued will require an updated BASIX Certificate.
- 2.8. Before the issue of the relevant construction certificate, the consent holder 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 of 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.
- 2.9. Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- 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 consent holder must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 2.10. Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining property at No. 66 Undercliffe Road

A photographic survey must be prepared of the adjoining properties at No. 66 Undercliffe Road detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the certifier and Canterbury Bankstown Council if Council is not the certifier, before the issue of the relevant construction certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the principal certifier and Canterbury Bankstown Council if Council is not the principal certifier. If damage is identified which is considered to require

rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.

- 2.11. 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 certifier before the issue of the construction certificate.
 - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.12. The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a) A medium duty VFC at the property boundary.
 - b) Drainage connection to Council's system.
 - c) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - d) Repair of any damage to the public road including the footway occurring during development works.
 - e) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The consent holder should make application and payment for the Work Permit at least twenty-one (21) days before the information being required and before the issue of the construction certificate. The Work Permit must be approved before any works commencing within the Council Road Reserve or on Council's assets.

- 2.13. 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

consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the issue of any construction certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

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 consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

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

- 2.14. 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.
- 2.15. Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5 stormwater guideline requirements and of the BASIX Certificate (where applicable). A final detailed stormwater drainage design shall be prepared by a qualified

Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan Rev A dated 06/04/2022 prepared by UNITED CONSTRUCTION ENGINEERS PTY LTD.

The final plan shall be certified by the design engineer that it complies with Council's Canterbury Development Control Plan 2012 Part B5, the BASIX Certificate and the relevant Australian Standards.

- 2.16. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued.

Furthermore, for internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 2.17. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

a. Council's Waste Management Development Control Plan

- 2.18. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Canterbury DCP 2012 and must include the following features, notations and specifications:

- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
- b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
- c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any),
- d. Details of drainage and watering systems (if any),

- e. A Landscape maintenance schedule period of 12 months is to be applied to this development. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plan,
- f. All the tree supply stocks shall comply with the guidance given in the publication Specifying Trees: a guide to assessment of tree quality by Ross Clark (NATSPEC, 2003),
- g. All scheduled plant stock shall be pre-ordered, before issue of construction certificate or 3 months before the commencement of landscape works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council before issue of any construction certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date, and
- h. One 75ltr (minimum) major canopy tree shall be planted within the front and rear setback to each dwelling.

2.19. The front setback is to be composed of entirely landscaped deep soil areas, except for required pedestrian and vehicular access.

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

3. Conditions to be Satisfied Before Construction.

3.1. Prior to demolition, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA.

All recommendations in the above-mentioned report are to be implemented and a clearance certificate issued by an appropriately qualified occupational hygienist is to be submitted to Council prior to the issue of a construction certificate.

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

- a. Written notice must be issued to adjoining residents a minimum of seven days before the commencement of demolition advising of the commencement date,
- b. Written notice must be issued to Council for inspection a minimum of seven days before the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,

- c. Inspections being undertaken by Council including:
 - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before demolition work commencing, and
 - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
- d. Payment of an inspection fee at Council's current rate must be paid before inspection. Council requires 48 hours' notice to carry out an inspection,
- e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
- f. All demolition work must be carried out in accordance with Australian Standard 2601 – 'The Demolition of Structures',
- g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
- h. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
- i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,
- j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
- k. Adhere to the requirements stipulated in the approved Waste Management Plan, and
- l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work.

- 3.3. 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 consent holder.

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

- a. the principal certifier has, no later than two days before the building work commences, notified the Consent Authority and the Council (if the council

- is not the Consent Authority) of their appointment as the principal certifier,
- b. the principal certifier has, no later than two days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,
 - 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 consent holder, 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 involved, 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 consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.4. 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 before the commencement of building work/s.
- 3.5. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than 14 days before the commencement of any site or building works.
- 3.6. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.7. 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).

- 3.8. 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.
- 3.9. 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 and 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.

- 3.10. 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.
- 3.11. 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 —
- In the case of work for which a principal contractor is required to be appointed—
 - the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an owner-builder—
 - the name of the owner-builder, and
 - 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.

- 3.12. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

4. Conditions to be Satisfied During Construction.

- 4.1. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
- 4.2. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 4.3. While building work is being carried out, the consent holder must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- 4.4. 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.

- 4.5. While building work is being carried out and where no noise and vibration management plan is approved under this consent, the consent holder is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- 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. The swimming pool is to be enclosed by a child resistant barrier comprising fences and gates designed, constructed, installed and maintained in accordance with Australian Standard AS 1926 – ‘Swimming Pool Safety Part 1: Safety barriers for swimming pools’.
- a. A notice containing the words
 - i. "Young children should be supervised when using this swimming pool" and
 - ii. "Pool gates must be kept closed at all times" and
 - iii. "Keep articles, objects and structures at least 900mm clear of the pool fence at all times"together with a simple flow sequence containing details of resuscitation techniques must be displayed in a prominent position in the immediate vicinity of the pool.
 - b. Overflow and discharge pipes from the pool and filtration unit must be connected to the sewer.
- 4.8. The use of the pool / spa filter equipment must not give rise to offensive noise as defined in the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2000*. All noise emitting equipment must be housed in an insulated enclosure or appropriately positioned so as to cause no nuisance to neighbours.
- 4.9. Access to a spa shall be restricted by means of a lockable child-safe cover.
- 4.10. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 4.11. The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the principal certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.12. While building work is being carried out, the consent holder must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

4.13. All excavation works carried out on site should be closely monitored to ensure no signs of potential acid sulfate soil or actual acid sulfate soil are observed. Indicators may include grey to greenish-blue clays, unusual gold-yellow mottling or 'rotten egg' odours. If any of these indicators are observed, excavation of the site must be stopped, and Council is to be notified immediately. A suitably qualified environmental consultant must be contracted to further assess the site.

4.14. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the consent holder must, at their own expense:

- 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 consent condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

4.15. 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.

4.16. While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.

Upon disposal of waste, the consent holder is to compile and provide records of the disposal to the principal certifier, detailing the following:

- The contact details of the person(s) who removed the waste
- The waste carrier vehicle registration
- The date and time of waste collection
- A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- The address of the disposal location(s) where the waste was taken

- The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the consent holder is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

4.17. The requirements of the submitted Waste Management Plan shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:

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

4.18. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the principal certifier. Works are to

cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the consent holder and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.

4.19. 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.

4.20. While vegetation removal, demolition and/or building work is being carried out, the consent holder must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The consent holder must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

4.21. While site or building work is being carried out, the consent holder must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970 – ‘Protection of trees on development sites’ and any arborist’s report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

4.22. All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS 4373 – ‘Pruning of amenity trees’ and Australian Standard AS 4970 – ‘Protection of trees on development sites’. Site specific conditions relating to tree protection shall take precedence over this requirement.

4.23. 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.

4.24. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The consent holder must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

4.25. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that an NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a site audit report and site audit statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

4.26. All waste material generated during demolition and construction must be disposed of at an appropriately licensed waste facility for the specific waste.

4.27. All waste must be transported by a contractor licensed to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.

4.28. Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the ‘Waste Classification Guidelines’ (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

4.29. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

- 4.30. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.

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. A report as prepared by a registered surveyor must be submitted to the principal certifier verifying that the reduced level (RL) of the finished floor level at each level, the height of external walls, the maximum reduced level (RL) of roof structures / roof eaves overhangs and the external wall setbacks to the property boundaries all conform with the approved plans.
- 5.3. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:
- a. After comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
 - b. Where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.
- 5.4. Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:
- a. no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
 - b. the consent holder has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – 'Preservation of Survey Infrastructure'.
- 5.5. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the principal certifier must request written confirmation from the relevant authority that the relevant services have been completed.

- 5.6. The swimming pool cannot be filled until Sydney Water has issued an appropriate permit and until the principal certifier has issued a final compliance certificate.
- 5.7. Adherence with each of following must have been met before the application for the occupation certificate:
- a. The *Swimming Pools Act 1992* and Regulations,
 - b. The swimming pool must have safety fencing installed in accordance with the requirements of Australian Standards AS 1926 – ‘Fencing for Swimming Pools’ and the *Swimming Pools Act 1992* and Regulations, and
 - c. AS 1926.3 – ‘Water Recirculation and Filtration’.

Evidence of compliance with these requirements is to accompany an occupation certificate.

- 5.8. The swimming pool / spa shall not be used until Council or the principal certifier has issued a final compliance certificate.
- 5.9. 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).
- 5.10. Before the issue of an occupation certificate, the consent holder 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.
- 5.11. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater management 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 Canterbury Development Control Plan 2012 Part B5. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the stormwater management system.

The principal certifier must provide a copy of the Work As Executed Plan and Hydraulic Engineer's Certification to Council with the occupation certificate.

- 5.12. Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.

Before the issue of a partial occupation certificate, the consent holder must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.

- 5.13. 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 – '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.
- 5.14. 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.

6. Conditions of Use.

- 6.1. The 'void' areas on the first floor of the dwelling are at no time to be converted to floor space for the lifetime of the development.
- 6.2. Any lighting of the premises must be installed and maintained in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 6.3. The nominated 'storage' area within the garage for each dwelling is at no time to be converted or used as a habitable area for the lifetime of the development.
- 6.4. The use of the site for a home office shall comply with the following requirements at all times. In particular:
- a. Car parking spaces for two vehicles shall be provided for the use of residents of the site.
 - b. A maximum of one non-resident employee shall work on the premises at any time.
 - c. The hours of operation of the use shall be limited to between 8.30am - 5.30pm Monday to Friday and 8.30am - 12 noon on Saturdays.
 - d. The proposed use shall not exceed 30sqm in floor area.
 - e. The use shall not involve the retailing of goods.

The use shall not involve the exhibition of any notice, advertisement or signs except where it indicates the name and occupation of the resident/s, is

limited in size to 0.6m x 1.2m, and a separate sign application has been submitted to and approved by Council.

- 6.5. The swimming pool is to be enclosed by a child resistant barrier comprising fences and gates, maintained in accordance with Australian Standard 1926 – ‘Swimming Pool Safety Part 1: Safety barriers for swimming pools’.

A notice containing the words:

- "Young children should be supervised when using this swimming pool" and
- "Pool gates must be kept closed at all times" and
- "Keep articles, objects and structures at least 900mm clear of the pool fence at all times"

together with a simple flow sequence containing details of resuscitation techniques must be displayed in a prominent position in the immediate vicinity of the pool.

-END-