



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

**6 June 2022 - 6.00pm**

---

## ORDER OF BUSINESS

---

### ORDER OF BUSINESS

### APOLOGIES AND DECLARATIONS

### CONFIRMATION OF MINUTES OF PREVIOUS MEETING

### DARANI / BANKSTOWN WARD

- |          |  |    |
|----------|--|----|
| <b>1</b> | <b>DA-682/2020 - 51 Hume Highway, Greenacre</b><br>Construction of a new building for use as a community facility  | 3  |
| <b>2</b> | <b>DA-1023/2020 - 161-163 Old Kent Road, Greenacre</b><br>Demolition of Existing Structures, consolidation of allotments and construction of a two storey, 92 Place Child Care Centre with basement parking. | 47 |

### BURA / BASS HILL WARD

- |          |   |    |
|----------|---|----|
| <b>3</b> | <b>DA-29/2021 - 126 Chester Hill Road Bass Hill</b><br>Construction of a two-storey, 88 place child care centre with basement carparking and landscaping. | 99 |
|----------|---|----|

### BUNYA / REVESBY WARD

- |          |  |     |
|----------|--|-----|
| <b>4</b> | <b>DA-538/2021 - 21 Marigold Street, Revesby</b><br>Demolition of existing structures (being those on proposed Lot 21), retention of existing structures (being those on proposed Lot 22), and Torrens Title subdivision of one Lot into two which create Lots 21 and 22 | 157 |
|----------|--|-----|

---

## Canterbury Bankstown Local Planning Panel - 06 June 2022

---

**ITEM 1** **DA-682/2020 - 51 Hume Highway, Greenacre**

**Construction of a new building for use as a community facility**

**FILE** **DA-682/2020 – Darani / Bankstown**

**ZONING** **R2 Low Density Residential**

**DATE OF LODGEMENT** **7 August 2020**

**APPLICANT** **Elie Sleiman**

**OWNERS** **Kahf El Malloul Charitable Association Inc**

**ESTIMATED VALUE** **\$759,981.00**

**AUTHOR** **Planning**

### REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel ('the Panel') in accordance with Schedule 2 of the Ministerial Direction "Local Planning Panel Directions – Development Applications" issued under section 9.1 of the Environmental Planning and Assessment Act, 1979. The subject application is defined as a 'contentious development' being one which has received sixteen (16) unique submissions by way of objection.

Development Application No. DA-682/2020 proposes the construction of a new building for use as a community facility associated with the Kahf El Malloul Charitable Association Inc.

DA-682/2020 has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979 requiring, amongst other things, an assessment against State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Bankstown Local Environmental Plan 2015 (BLEP 2015), Draft Canterbury Bankstown Local Environmental Plan 2020 and Bankstown Development Control Plan 2015 (BDGP 2015).

The application was advertised for two 21-day periods from which a total of sixteen (16) unique submissions (in objection to the development) were received. The submissions raised concerns relating to parking, traffic, suitability of the development in the locality (*not addressed in the submissions section*), solar access (*not addressed in the submissions section*)

and security (amongst other things). The concerns raised in the submissions have been addressed in this report and do not warrant refusal or further modification of the development.

## **POLICY IMPACT**

---

This matter has no direct policy implications.

## **FINANCIAL IMPACT**

---

The proposed matter being reported as 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-682/2020 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 51 Hume Highway, Greenacre and is situated on the south eastern corner of the intersection of Glover Street and the Hume Highway. The site has an area of 710.9m<sup>2</sup> with a primary frontage of 19.59m to the Hume Highway and a secondary frontage of 29.87m to Glover Street. Rectangular in shape, the site has a fall of approximately 1m from the rear (south-eastern) boundary to the front (north-western) boundary while there also exists a cross fall from the sites north eastern boundary to its south western boundary (i.e. to Glover Street).

The site is zoned R2 Low Density Residential and is in the proximity of land zoned B1 Neighbourhood Centre (on the other side of Glover Street). The surrounding development generally comprises of dwellings, dual occupancies, shop top housing and business premises. A single storey dwelling previously occupied the site however it has since been removed. The site is not only clear of any built structures but is also devoid of any vegetation. A street tree occupies the road reserve (along the Glover Street frontage).

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



Figure 1: Aerial of the subject site

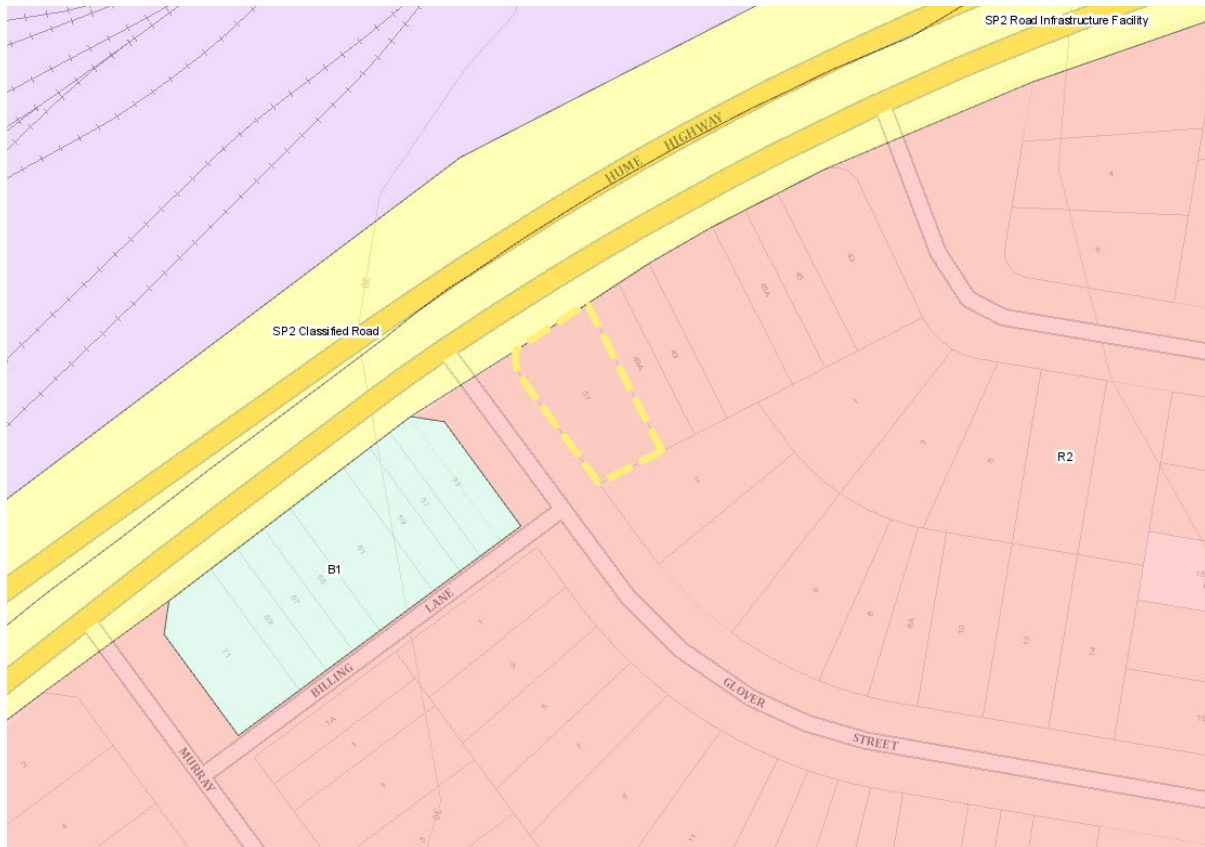


Figure 2: Zoning Map

### **PROPOSED DEVELOPMENT**

The Development Application proposes the following:

- Construction of a two storey community facility which is to include a hall, kitchen and toilet facilities;
- Below ground parking for six cars;
- At grade car parking for four cars at the rear of the site, one of which being an accessible space; and
- Site landscaping.





Figure 3: Artists impression

The proposal is to be owned and controlled by a non-profit community organisation being the Kahf El Malloul Charitable Association Inc. Registration of the organisations not for profit status has been verified through the NSW Department of Fair Trading Incorporated Associations Register.

The proposal is to be used (based on the submitted information in the Plan of Management) for the physical, social, cultural or intellectual development or welfare of the community. The use incorporates community group meetings, community services, workshops and committee meetings.

#### **SECTION 4.15 ASSESSMENT**

The proposed development has been assessed pursuant to section 4.15(1) 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 No 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020
- Bankstown Development Control Plan 2015 (BDCP 2015)

Note: On 2 December 2021, the Department of Planning and Environment announced the consolidation of State Environmental Planning Policy (SEPPs) to align with nine (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.

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

***State Environmental Planning Policy No 55 – Remediation of Land***

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

A review of the history of the site shows that the subject sites has only been used for residential purposes. There is no indication to suggest that contamination is, or may be, present at the site. The subject land is not associated with any activities identified in Table 1 of the Managing Land Contamination Guidelines that may cause contamination.

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

***State Environmental Planning Policy (Infrastructure) 2007***

***Transport for New South Wales (TfNSW)***

**Vehicle access**

As the site has a frontage to a classified road, the SEPP is relevant and requires Council to be satisfied that vehicular access to the land is provided by a road other than the classified road where practical. The applicant is seeking to provide vehicular access to the site from Glover Street. No vehicular access is proposed off the Hume Highway.

The application was referred to the TfNSW, who provided concurrence. The terms of approval, including conditions, have been incorporated into the recommended conditions of consent. The objectives and provisions of this clause have therefore been satisfied.



### Noise and vibration

As the Hume Highway is identified as a road with an annual average daily traffic volume of more than 40,000 vehicles, the SEPP is relevant and requires Council to consider whether the development is likely to be adversely affected by road noise/vibration and also requires Council to be satisfied that appropriate measures will be taken to ensure that certain noise criteria is not exceeded.

An acoustic report prepared by Benjamin Lamont (Day Design Consulting Acoustical Engineers Pty Ltd), accompanied the application. The report includes recommendations to satisfy the acoustic criteria outlined in the SEPP.

The measures proposed are consistent with the Department of Planning and Environment's 'Development near Rail Corridors and Busy Roads – Interim Guideline' relating to development near busy roads as well as satisfying the requirements of the SEPP.

### ***Bankstown Local Environmental Plan 2015***

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

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 6.2 – Earthworks

BLEP 2015			
Clause	Requirement / Provision	Comment	
1.2 Aims of Plan	This Plan aims to make local environmental planning provisions for land in Bankstown in accordance with the relevant standard environmental planning instrument.	The proposal has been assessed as being consistent with all relevant aims of the BLEP 2015.	Y
2.2 Zoning of land to which Plan applies	The zoning of the land	The zoning of the land is specified within the land zoning map as R2 Low Density Residential.	Y
2.3 Zone objectives and Land Use Table	The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone	The proposal has been assessed as being consistent with the objectives of the zone, specifically with the land being used for the purposes of a community facility.  The Bankstown Local Environmental Plan 2015 defines a community	Y

		<p>facility as follows:  <i>community facility means a building or place—</i>  <i>(a) owned or controlled by a public authority or non-profit community organisation, and</i>  <i>(b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.</i></p> <p>The community centre is to be owned and controlled by a non-profit community organisation being the Kahf El Malloul Charitable Association Inc.</p> <p>The community centre is to be used (based on the Plan of Management) for the physical, social, cultural or intellectual development or welfare of the community. The use incorporates community group meetings, community services, workshops and committee meetings.</p>	
4.3 Height of buildings	To ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located	The proposed development has been assessed as being consistent with the aims of this clause. The proposal provides a 7m building height which complies with the 9m maximum building height standard prescribed.	Y
4.4 Floor space ratio	To establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site	A floor space ratio of 0.4:1 applies to the site. The proposal represents a gross floor area of 264.2m <sup>2</sup> which equates to a floor space ratio of 0.37:1.	Y
6.2 Earthworks	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposal incorporates excavation to accommodate the below ground parking and waste storage areas. The proposal is considered to not have a detrimental impact on environmental functions and neighbouring uses.	Y

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

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

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

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

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

The following table provides a summary of the development application against the relevant controls contained in Part A2, B5 and B7 of the *Bankstown Development Control Plan 2015*.

BDCP 2015			
Standard	Requirement	Proposal	Y / N
Part A2			
Objectives	<p>The objectives to achieve the desired character are:</p> <p>(a) To ensure the bulk and density of development is compatible with the location of the development to shopping centres and public transport, and the desired character of the Hume Highway Corridor.</p> <p>(b) To provide the Hume Highway Corridor with environments that are safe, well landscaped and achieve high amenity.</p> <p>(c) To have a landscape buffer zone to the Hume Highway that enhances the Remembrance Driveway landscape corridor and improves the amenity of development.</p> <p>(d) To have a minimum setback to the Hume Highway that improves the amenity of dwellings in terms of air quality and acoustic privacy.</p> <p>(e) To encourage business activities and active street frontages to the Hume Highway.</p>	<p>The proposal has an appropriate bulk and scale which is considered to be generally consistent with the residential character both emerging and established to the east and south and the scale of the existing commercial development to the west.</p> <p>The proposal provides a suitable landscape treatment addressing the sites exposure to both the Hume Highway and Glover Street.</p>	Y

	(f) To have appropriate bulk, density and vehicle access that will not have an adverse impact on land in the vicinity of the key development sites.		
Part B5			
2.2	Development not included in the schedule of car parking standards must submit a parking study for Council's consideration. A qualified traffic consultant must prepare the parking study.	<p>A qualified traffic consultant has submitted a parking study justifying the adequacy of the proposed 10 on-site car parking arrangements.</p> <p>An assessment of the applicant's parking study was conducted by Council's Traffic Engineers who made comparisons against other approved community facilities within the Canterbury Bankstown area (based on similar localities and circumstances). Upon a review of the applicant's report and having regard to circumstances around which other similar facilities have been approved and operate, the 10 on-site car parking spaces were deemed sufficient.</p>	Y
2.7	Development should provide special parking spaces for people with disabilities at the rate of at least one car space per 100 car spaces provided. Council may require a higher proportion of car spaces for land uses which generate high volumes of sick and infirm visitors such as in medical centres and hospitals.	One accessible parking space has been provided.	Y
Part B7			
Objectives	<p>(a) To regulate specific types of development.</p> <p>(b) To have educational establishments, community facilities, and information and education facilities that are compatible with the prevailing character and amenity of the locality of the area.</p> <p>(c) To have educational establishments, community facilities, and information and education facilities that do not adversely impact on the residential amenity of neighbouring dwellings and the surrounding area.</p>	The proposal, based on the commentary provided in this report is considered to provide a community facility that is compatible with the prevailing character and amenity of the locality of the area.	Y

10.1	<p>In determining development applications that relate to land within Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential, the consent authority must take into consideration the following matters:</p> <ul style="list-style-type: none"> <li>(a) whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone;</li> <li>(b) whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development;</li> <li>(c) whether the proposed development will maintain reasonable solar access to residential development between the hours of 8.00am and 4.00pm at the mid-winter solstice;</li> <li>(d) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised;</li> <li>(e) whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like; and</li> <li>(f) whether any windows or balconies facing residential areas will be treated to avoid overlooking of private yard space or windows in residences.</li> </ul>	<p>The proposed building is compatible with the building height requirement (being less than 9m in height), scale, siting and character of existing residential development.</p> <p>The proposal incorporates storage and waste areas to the lower level which are concealed from adjoining properties. A condition of consent has been recommended which requires the proposal to ensure plant, air-conditioning units or the like are located away from adjoining residential properties.</p> <p>Adjoining residential properties will maintain sunlight to between the hours of 8am and 2pm at the mid-winter solstice.</p> <p>An Acoustic Report prepared by Day Design Pty Ltd (Consulting Acoustical Engineers) was submitted with the application which makes a number of recommendations which have been referenced in the conditions of consent. In summary, the acoustic report provides attenuation measures that mitigate acoustic impacts to adjoining properties.</p> <p>The proposal is accompanied by a Plan of Management which addresses operational issues such as traffic movements and security which is conditioned as part of the determination notice. Specific traffic comments are provided in detail in this report (below).</p> <p>Rear windows are considered to be setback from adjoining properties which mitigates visual privacy impacts. There are no accessible balconies for use as part of the proposal.</p>	Y
------	--	---	---

Part B13			
Section 2 Objectives	<p>(a) To assist the city achieve waste minimisation targets established within the NSW Waste Avoidance and Resource Recovery Strategy and regional waste plans.</p> <p>(b) To encourage and promote best practice and innovative techniques within the demolition and construction process that minimise waste generation and which maximise the reuse and recycling of materials.</p>	The proposal has been assessed by Councils Waste Services officers from which it is considered that this community facility achieves the specified waste targets and promotes best practice for construction waste.	Y
1.1	All development applications are to be accompanied by a Waste Management Plan prepared in accordance with the Waste Management Guide for New Developments and the Bankstown Demolition and Construction Guidelines.	A Waste Management Plan has been submitted and is in accordance with the Waste Management Guide for new developments and the Bankstown Demolition and Construction Guidelines.	Y
Section 3 3.1	Development must provide bin storage and separation facilities.	The development provides bin storage areas within the lower level parking area.	Y
3.2	<p>Development must provide an appropriate and efficient waste storage system that considers:</p> <p>(a) the volume of waste generated on-site;</p> <p>(b) the number of bins required for the development and their size; and</p> <p>(c) waste and recycling collection frequencies.</p>	The submitted Waste Management Plan details that two 660L Garbage bins, one 660L recycling bin and one 240L garden waste bin would be provided which is considered acceptable by Councils Waste Officers.	Y
3.5	Bin storage areas are to integrate with the overall design and functionality of development and are to locate within the building envelope to enable these areas to be screened from view from the public domain.	The Bin storage areas located within the lower level parking areas are integrated with the overall design and provide suitable access to the street during collection.	Y
3.6	The design of the bin storage area must comply with the requirements of the Waste Management Guide for New Developments.	The proposal complies with the requirements of the Waste Management Guide for New Developments.	Y
3.7	An on-site collection point is to be nominated for development. The location of the collection point must allow collection vehicles to enter and exit the site in a forward direction and allow all vehicle movements to comply with AS 2890.2. The location of the collection point must ensure waste servicing does not impact on any access points, internal roads and car parking areas.	The on-site collection point nominated is via the kerbside of Glover Street which complies with AS2890.2.	Y



3.8	Waste collection frequency is to be a minimum of once per week. Higher collection frequency may be required for development with larger waste generation rates and to ensure bin storage areas are kept clean, hygienic and free from odours.	The Waste Management Plan details weekly waste collection, whereas larger events will require additional waste collections (as specified).	Y
-----	---	--	---

### Plan of Management

The Plan of Management details how the site will operate. This includes, waste management, noise management, security measures, complaints handling, house rules and uses / activities that are to occur.

Waste Management has been assessed by Councils Waste Services Officers and in accordance with the requirements of the Bankstown Development Control Plan 2015 from which it is concluded that the waste storage and collection arrangements are acceptable.

The submitted acoustic report provides noise attenuation measures for the proposal. The plan of management adopts these measures and encourages noise to be kept to a minimum where possible, doors to be closed and noise generating devices to be kept to within reasonable levels as per the recommendations of the acoustic report.

Security measures (as detailed in the plan of management) include Closed Circuit Television (CCTV) surveillance cameras which will be installed to provide internal and external coverage of the premises and back-up of 31 day recorded footage.

A Complaints Register shall be established by the Kahef El-Malloul Charitable Association Inc Committee and kept at the community centre at all times. The 'Community House Coordinator' shall table all complaints with the committee immediately as they arise.

The submitted Plan of Management details the various uses and activities within the community facility as follows:

General Meetings / Normal Events*Table 2: General meetings/ Normal events*

Use	Scale	Frequency
General meetings	Up to 25 ppl	Once a week
KEM Charitable Association Inc committee meetings	Up to 5 ppl	Once a fortnight
Workshops & Lectures	Up to 25 ppl	Once a month
Community services	Up to 25 ppl	Once a week

Special Events*Table 3: Special events*

Use	Scale	Frequency
Paying Respect/ Condolences	Up to 75 ppl at any given time	Approx. 4 times per year, depending on rate of death
Family and social events	Up to 75 ppl at any given time	Four (4) times per year
Charity fundraising events	Up to 75 ppl at any given time	Twice per year

It is noted that Council does not accept the proposed hours of operation, limiting the hours of operation to 7am – 10pm seven days a week (as detailed in the draft conditions of consent). In addition to this, a condition has been provided on the consent requesting that the plan of management be amended to restrict any activities associated with a Place of Public Worship, Funeral Home and Function Centre. In addition, the plan of management must be amended to note a maximum of 50 persons for special events as detailed in the submitted traffic report.

The uses detail the frequency of each event and number of people. Therefore, it is concluded that the use should mostly facilitate a maximum of 25 people at any one time with the exception of where the special events can occur that allow for 50 people.

## **Traffic and Parking**

### Parking Arrangements and Impact on the Surrounding Road Network

The proposal incorporates (as mentioned above) a maximum of 25 people for normal activities and events throughout the year, with a maximum of 50 people for special events. The proposal provides 10 off-street car parking spaces (inclusive of 1 accessible space). The commentary provided below demonstrates how the 10 off street spaces is considered acceptable:

- the availability of on-street car parking
- scheduling of day to day activities as detailed in the plan of management
- parking demands for other approved (similar) community facilities within the Canterbury Bankstown Local Government Area

The purpose of the submitted traffic report was to establish a parking rate for the proposed development which was based on comparisons of other previously approved community centres within the local government area of Canterbury Bankstown Council such as DA-381/2019 at 170 South Terrace, Bankstown, which was deemed a comparable stand-alone community centre.

A Traffic Impact Assessment (TIA) report prepared by TTPA (Ref: 19160, July 2019, Issue A), for the community centre at 170 South Terrace, Bankstown was analysed as part of this assessment.

Further comments by PDC Consultants indicated the comparison and updated calculation of the parking rate and parking demand based on the TIA information provided by Council.

The approved parking rate for 170 South Terrace, Bankstown was 0.56 car spaces / patron (i.e. 56% of patrons drove to the site). Using the above parking rate for the proposed development, the parking demand for the subject development is shown in the Table 1 below.

A parking survey was previously carried out by PDC Consultants and the results of the survey indicated that there are adequate on-street parking spaces available along Wesley Street, Glover Street and Murray Street, as shown in Table 2 below.

The submitted traffic statement by PDC Consultants also identified the cumulative impacts of the recently approved development in 53-55 Hume Highway (DA-849-2018).

It must be noted that the majority of activities throughout the year are for a maximum of 25 persons with special events only to occur quarterly. Accordingly, for 25 persons (normal events) and 50 persons (special events), the number of parking spaces / parking demand for the proposed development, as indicated in Table 1 below is considered to be acceptable.

The proposed development provides 10 parking spaces on-site, therefore under normal events the proposal will have a deficiency of 4 spaces and will need to accommodate 4 spaces on-street, while for special events 18 spaces are to be accommodated on-street within 200m walking distance to the site.

**Table 1: Car Parking Requirement and Provision – Normal Events**

TYPE	MAX. NO. OF PATRONS	APPROVED PARKING RATE	DEMAND	PARKING PROVISION
Normal Events	25	0.56 spaces / patron	14	10
Special Events	50		28	10

**Table 2: Summary of On-Street Parking Survey Results**

STREET NAME	PARKING CAPACITY	MINIMUM NUMBER OF PARKING SPACES AVAILABLE	
		Weekday 9pm	Saturday 9pm
Wesley Street	19	4	2
Glover Street	43	23	19
Murray Street	19	10	13
<b>TOTAL</b>	<b>81</b>	<b>37</b>	<b>34</b>

**Table 3: Cumulative On-Street Car Parking Demand**

PROPOSED EVENTS	RELIANCE ON ON-STREET PARKING BY 51 HUME HIGHWAY DEVELOPMENT	RELIANCE ON ON-STREET PARKING BY 53-55 HUME HIGHWAY DEVELOPMENT	TOTAL RELIANCE ON ON-STREET PARKING
Normal Event	4 Car Spaces	4 Car Spaces	<b>8 Car Spaces</b>
Special Event	18 Car Spaces	4 Car Spaces	<b>22 Car Spaces</b>

**Table 4: Total On-Street Car Parking Availability**

PROPOSED EVENTS	TOTAL RELIANCE ON ON-STREET PARKING	MINIMUM NUMBER OF PARKING SPACES AVAILABLE	
		Weekday 9pm	Saturday 9pm
Normal Event	8 Car Spaces	29	26
Special Event	22 Car Spaces	15	12

The proposed development is not expected to have an unacceptable parking impact within the surrounding road network given the frequency of the special events proposed.

**Planning agreements [section 4.15(1)(a)(iii)]**

There are no planning agreements applicable to the proposed development.

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

The proposed development is consistent with the provisions of the Environmental Planning and Assessment Regulation, 2021.

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

The proposed development is not considered likely to result in any significant environmental, social or economic impacts on the locality. As detailed in this report, the development complies with the applicable requirements and in review is considered worthy of support. As such, it is considered that the impact of the proposed development on the locality will be acceptable.

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

The site is considered suitable for the proposed development.

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

The application was advertised/notified for a period of twenty-one days on two occasions from 2 September 2020 to 23 September 2020 & 16 February 2022 to 9 March 2022. A total of sixteen (16) objections were received during these periods, which raised concerns relating to parking, security, impact on adjoining property prices, patron numbers, noise, overcrowding and waste. A consolidated response to the various issues raised is provided below.

Issue: Parking

Response: The proposed development provides a total of ten (10) off street car parking spaces which is considered to be an acceptable rate of off-street parking based on another approved community centre within the Canterbury Bankstown Local Government Area. The proposal included a traffic report, prepared by a qualified traffic consultant, which analysed other existing developments in the area, on-street parking and the operations of special events for this proposal. Upon review by Council's Traffic Engineers, it was deemed that the 10 parking spaces provided, combined with the availability of existing on-street parking within the immediate context, was adequate.

Issue: Security

Response: The proposal has been referred to Bankstown Local Area Command (NSW Police) and Council's Community Safety advisors from which an analysis of the submitted documentation (including the plan of management) was undertaken. The Bankstown Local Area Command were of the view that the application should only be supported on the basis of a twelve (12) month trial. In light of the extent of the works proposed (with respect to construction works and costs), it would be unreasonable to impose a trial period. The plan of management details ongoing security management strategies, house rules and complaints handling which form part of the determination notice. Compliance with these actions will ensure and maintain security for the patrons visiting the site and those that adjoin.

Issue: Impact on Property Prices

Response: The applicant is seeking approval for a permissible form of development and, as demonstrated in this report, the development satisfies all of the relevant provisions contained in the various layers of planning legislation that apply.

Issue: Patron Numbers / overcrowding

Response: The proposal seeks to operate the facility such that a maximum number of twenty-five (25) patrons attend for normal events / activities and fifty (50) patrons attend for special events / activities. Conditions of consent are recommended to be imposed confirming these maximums to which the centre will be required to comply with.

Issue: Noise

Response: An Acoustic Report prepared by Day Design Pty Ltd (Consulting Acoustical Engineers) was submitted with the application which makes a number of noise control recommendations which have been referenced in this report and the conditions of consent. These include amplified music restrictions; mechanical plant being recessed and restricted and operational noise management restrictions. The report details that at any time noise must not exceed 76 dBA internally to the building.

Issue: Waste

Response: The proposal was assessed in accordance with the requirements of Part B13 – Waste Management and Minimisation of the Bankstown Development Control Plan 2015 and the Waste Management Guide for New Developments. A Waste Management Plan was submitted which details bin storage areas, ongoing waste management on the site, recycling requirements, waste requirements during demolition, minimum bin size requirements, bin carting distances and collection requirements. Council's Waste Services officers have reviewed the applicant's Waste Management Plan and are satisfied that it meets the requirements of Part B13 of the Bankstown Development Control Plan 2015.



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

Approval of the proposed development is not considered to contravene the public interest as it is a permissible land use within the zone and provides a facility that supports the needs of community members through the charitable organisation mentioned.

**CONCLUSION**

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

Based on the above assessment, the proposed community facility is consistent with the relevant objectives and standards outlined within State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Bankstown Local Environmental Plan 2015, Draft Canterbury Bankstown Local Environmental Plan 2020 and Bankstown Development Control Plan 2015.

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

**RECOMMENDATION**

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



## SCHEDULE 1 – CONDITIONS

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

### 1. Approved Development.

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

Plan No.	Plan Name	Issue	Prepared By
03	Site Plan	B	ES Design
04	Lower Ground Floor Plan		
05	Ground Floor Plan		
06	West/North Elevations		
07	East/South Elevations		
08	Driveway Grade Section and Details		
09	Parking		
10	Driveway Grade Section and Details		

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

- 1.1. Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.
  - a. The approved plan of management must be amended to reflect the hours of operation (as approved) to being 7am – 10pm Monday to Sunday.
  - b. The approved plan of management must be amended to strictly prohibit any operations associated with a Place of Public Worship, Funeral Home and Function Centre.
  - c. The approved plan of management must be amended to limit special events to a maximum of 50 persons at any given time.
- 1.2. A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with relevant legislation.
- 1.3. The acoustic report submitted in support of this application prepared by Day Design Pty Ltd, titled, Environmental Noise Impact Assessment, report number 6916-1.1R, dated 7 July 2020 and all the recommendations stated within the report, form part of the development consent.

- 1.4. Transport for NSW (TfNSW) has previously resumed and dedicated a strip of land as road along the Hume Highway frontage of the subject property, as shown by grey colour on aerial "X" on Attachment A.

All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Hume Highway boundary.

**ATTACHMENT A**



- 1.5. All construction vehicles are to access the site via Glover Street. A construction zone will not be permitted on the Hume Highway.
- 1.6. Closed Circuit Television (CCTV) surveillance cameras providing internal and external coverage of the premises and back-up 31-day record footage must be maintained for the life of the development.
- 1.7. A back to base monitored alarm system must be provided for the life of the development.
- 1.8. The proposal must not operate as a place of public worship, or function centre for the life of the development.
- 1.9. The Plan of Management prepared by ES DESIGN, dated March 2020 forms part of the development consent.

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

- 2.1. Development Contributions of \$7599.81 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Bankstown Development Contributions Plan 2019-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.

- 2.2. A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a construction certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 2.3. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the principal certifier prior to 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:
- 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,
  - Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
  - The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), and
  - Details of drainage and watering systems (if any).

- 2.4. Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.
- 2.5. Before the issue of a construction certificate or, the person having benefit of this Determination Notice is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- a. Council's development control plan,
  - b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
  - c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

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

- 2.6. The Council approved 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](http://www.sydneywater.com.au/tapin) for Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPINTM.

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

- 2.7. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.8. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](http://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.



- 2.9. 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.
- 2.10. The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a. Heavy duty VFC of maximum width of 6.0metres at the property boundary.
  - b. Footpath reconstruction fronting the subject property on Glover Street
  - c. Removal of all redundant 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.

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

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

This plan shall include details of the following:

- a. Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b. Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c. Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d. Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e. Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

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

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

- 2.13. 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 that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a. Dig up, disturb, or clear the surface of a public footway or public road,
- b. Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,

- c. Connect a road (whether public or private) to a classified road,
- d. Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e. Install utilities in, under or over a public road,
- f. Pump water into a public footway or public road from any land adjoining the public road,
- g. Erect a structure or carry out a work in, on or over a public road
- h. Require a work zone on the public road for the unloading and or loading of vehicles
- i. Pump concrete from within a public road,
- j. Stand a mobile crane within a public road
- k. Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l. The work is greater than \$25,000.
- m. Demolition is proposed.
- n. Subdivision is proposed.
- o. A Swimming pool is proposed.
- p. Heavy duty Vehicular Footway Crossing (VFC) of maximum width of 6 metres at the property boundary. All existing and / or new infrastructure located on Council's land in front of the development site is to be provided in accordance with Council's Engineering Standard STD DWG N° S-004. All costs associated in achieving compliance with this condition must be borne by the person having the benefit of this Determination Notice. All work must be completed prior to the issue of any Occupation Certificate,

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

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

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

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

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

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au)

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

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

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

- 2.14. 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 applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 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 layout of the approved car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, and parking bay dimensions) should be in accordance with the AS 2890 parking series.

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 Principal Certifier prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 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. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the Principal Certifier prior to the issue of the construction certificate.
  - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.18. An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifier for approval prior to the issue of a construction certificate.
- 2.19. The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 2.20. 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
H921-S1/5	B	26-11-2020	TAA Consulting Engineers
H921-S2/5	B	26-11-2020	TAA Consulting Engineers
H921-S3/5	B	26-11-2020	TAA Consulting Engineers
H921-S4/5	B	26-11-2020	TAA Consulting Engineers
H921-S5/5	B	26-11-2020	TAA Consulting Engineers

The proposed OSD shall be amended to include provision for overflow that would cater for the 1% AEP flows. The above listed plans shall be amended to reflect the approved architectural plans.

2.21. A vacant land charge form is to accompany any Construction Certificate application for the removal of all domestic garbage and recycling bins.  
<https://www.cbccity.nsw.gov.au/council/forms/waste-recycling>

2.22. A design certificate and detailed plans are to accompany any Construction Certificate application which demonstrate that the waste storage room has been designed to be constructed in accordance with the Waste Management Guide for New Developments and including the following requirements:

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
- b. The floors must be finished so that is non-slip and has a smooth and even surface.
- c. The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
- d. The walls must be constructed of solid impervious material.
- 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 2m wide.
- l. Designed to fit 1 x 660L recycling bins
- m. Designed to fit 2 x 660L garbage bins

2.23. A design certificate and detailed plans are to accompany any construction certificate application which demonstrate that the bin carting route from the waste storage room to nominated collection point has been designed to be constructed in accordance with the following requirements:

- a. Direct and less than 10 metres,



- b. Minimum 2m wide hard surface;
  - c. Non-slip, free from obstacles and steps;
  - d. Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff;
  - e. A maximum grade of 1:30 (3%); and
  - f. Layback installed at the nominated collection point.
- 2.24. Sight triangle is to be marked on Ground floor plan (Dwg No. 19085-05 Issue C dated 10/11/2021) and provided on the exit side driveway, 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.
- 2.25. If a Works Zone in Glover Street is required, the applicant shall apply to the Canterbury Bankstown Traffic Committee for the installation of a Works Zone at the site's frontage 8 weeks in advance prior to commencement of construction, including payment of the relevant fees and charges. This is subject to recommendation by the Traffic Committee and must be approved by Council and paid for prior to issue of a Construction Certificate.
- 2.26. A Construction Traffic Management Plan (CTMP) / Site Pedestrian Traffic Management Plan (SPTMP) shall be required to be submitted six months prior to the commencement of works on the site, for construction phases of the development / project.

Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic and Transport Section for a CTMP / 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 measures to be implemented for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;

- e) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- f) 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.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate.

Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

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

In addition, 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.

### **3. Conditions to be Satisfied Before Construction.**

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

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

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,
  - b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
  - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
  - d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
    - ii. notified the principal certifier of the appointment, and
    - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
  - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.
- 3.3. 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).
- 3.4. 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.
- 3.5. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.

- 3.6. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.
- 3.7. The tree located on Council's nature strip is approved for removal:
- a. All tree removal works must be carried out by a qualified arborist - minimum qualification Australian Qualification Framework (AQF) Level 3 or equivalent;
  - b. The tree removal contractor must hold a Public Liability Insurance Certificate of Currency with a minimum indemnity of \$20 million, together with a NSW Workers Compensation Insurance Certificate of Currency;
  - c. The tree removal work must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW);
  - d. The tree stump is to be ground to 300mm below ground level.
  - e. Investigation to locate underground services shall be the responsibility of the applicant.
  - f. All tree material shall be removed from site, and the nature strip shall be backfilled, compacted and restored to the original level.
  - g. The site must be maintained in a safe condition at all times;
  - h. Appropriate hazard signage to be in place at all times during the tree works.
  - i. All other street vegetation not specifically identified above is to be retained and protected from construction damage and pruning.
- 3.8. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.
- Where the work is located within 3.6m of a public place, then a Type A or Type B hoarding must be constructed appropriate to the work proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of building work/s.
- 3.9. A sign must be erected in a prominent position on any site on which building 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 is being carried out but must be removed when the work has been completed.

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

#### **4. Conditions to be Satisfied During Construction.**

- 4.1. Building work must be carried out in accordance with the requirements of the BCA.
- 4.2. An identification report by a registered surveyor must be submitted to the principal certifier prior to the ground floor slab being poured to verify the buildings wall setback and floor level conform to the approved plans.
- 4.3. The principal certifier must ensure that building work 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 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.

- 4.4. 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.
- 4.5. 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.

- 4.6. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
- a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
  - b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- 4.7. 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.
- 4.8. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
- a. Protect and support the building, structure or work from possible damage from the excavation, and
  - b. Where necessary, underpin the building, structure or work to prevent any such damage.
- This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.
- 4.9. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.10. 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.

- 4.11. 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.

- 4.12. 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 provided to Council prior to the issue of an Occupation Certificate.

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

- 4.13. 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.

- 4.14. 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 seven (7) days of the notification to the NSW EPA.

- 4.15. All excavations must be kept free from the accumulation of water.

- 4.16. Requirements of the approved waste management plan shall be complied with during all site preparation works and throughout all construction works. When implementing the waste management plan the developer is to ensure:

- a. The disposal of construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*



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

## **5. Conditions to be Satisfied Before Occupation.**

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. An occupation certificate must not be issued until all conditions relating to building works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.3. Ten (10) off street car spaces being provided in accordance with the submitted plans.

One (1) of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 5.4. An Emergency Response Management Plan shall be prepared and submitted to Council's satisfaction. The Plan shall include the following:
  - a. List of chemicals and maximum quantities to be stored at the site;
  - b. Identification of potentially hazardous situations;

- c. Procedure for incident reporting;
  - d. Details of spill stations and signage;
  - e. Containment and clean-up facilities and procedures; and
  - f. The roles of all staff in the plan and details of staff training.
- 5.5. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.
- 5.6. 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.

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, prior to 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.

- 5.7. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 5.8. Before the issue of the relevant occupation certificate, the person having the benefit of this Determination Notice must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming compliance with Bankstown Development Engineering Standards. The principal certifier must provide a copy of the plans to Council with the occupation certificate.
- 5.9. A final Operational Plan of Management is to be formulated and submitted to Council for approval prior to the issue of an Occupation Certificate. The Plan of Management will include a complaints and incidents register. The complaints and incident register will include:

- a. Date and time of complaint or incident;
- b. Name and contact details of person registering the complaint or incident;
- c. Nature of the complaint or incident;
- d. Action taken (by whom and when) in response to complaint or incident;  
and
- e. Outcome and/or further action required.

Once approved by Council the recommendations included within this Plan of Management will form conditions of consent.

- 5.10. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier prior to the issue of an occupation certificate.
  - 5.11. Any redundant driveway along Glover Street fronting the development to be removed and reinstated with kerb and gutter and verge to match with remaining at the Applicant's cost.
  - 5.12. The footpath along Glover Street fronting the development is to be reconstructed at the Applicant's cost.
  - 5.13. An identification report by a registered surveyor must be submitted to the principal certifier to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
  - 5.14. The following replacement tree is to be planted on the nature strip forward of the property prior to the issue of a work permit compliance certificate and/or and Occupation Certificate.
    - i.1 x *Melaleuca linariifolia* (Snow in summer) OR 1 x *Harpullia pendula* (Tulipwood) OR 1 x *Syzygium* 'Hot Flush' to be planted no closer than 2.5 metres from the edge of the vehicle footpath crossing
- a. The tree/s shall have a minimum container size of 75 litres.
  - b. The tree/s shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use.
  - c. The tree is to be planted and maintained in accordance with Councils street tree planting specifications Standard Drawing No. S-202.
  - d. All new plantings shall be located so future growth will not be in conflict with electricity wires. All overhead electrical wires between the power pole and approved structures are to be located outside the crowns of existing trees, with sufficient space for the canopy to grow and in accordance with the clearances specified by the energy authority.
  - e. Consideration should be given to the location of new electricity poles and wires so that sufficient space is provided.

- f. Investigation to locate underground services shall be the responsibility of the developer. Should such services exist and it is reasonable that damage may occur to those services by the new plantings, the following is to occur:
  - Carry out engineering works to protect those services from damage; or
  - Relocate the plantings to a more suitable location following written approval from Canterbury Bankstown Council; or
  - Substitute the approved tree species with an alternative species following written approval from Canterbury Bankstown Council.
- g. The tree shall be planted by a qualified landscape contractor and to the satisfaction of Councils Tree Management Officer.
- h. Compliance with this condition is to be confirmed with Councils Tree Management Officer prior to the issue of an occupation certificate. An inspection must be booked with Council after the replacement tree has been planted. Inspections must be booked at least 5 working days prior to being required.

5.15. Prior to the issue of any occupation certificate, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial portion of the development. The contract is to ensure the removal of all waste from the development site. Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- a. The service is functional and meets the operational needs of the development.
- b. The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any occupation certificate.

## **6. Conditions of Use.**

- 6.1. Car parking spaces for ten (10) vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The 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.
- 6.2. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 6.3. The hours of operation of the use shall be limited to 7am – 10pm Monday to Sunday.

- 6.4. The premises must only operate with a maximum of 25 persons for normal events and 50 persons for special events for the life of the development.
- 6.5. All loading and unloading of goods shall take place within the site or from the adjoining service lane in a manner that does not interfere with parking areas, driveways or landscaping.
- 6.6. There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 6.7. 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.
- 6.8. 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.
- 6.9. Identification number/s are to be conspicuously displayed at the front of the premises.
- 6.10. All vehicles associated with the development is to enter and exit the site in a forward direction.
- 6.11. The installation of barbecue or charcoal cooking appliances or the cooking of food at the premises by barbecue or charcoal methods is not permitted.
- 6.12. No mobile food vending vehicles or temporary food premises at permitted to operate at the premises without prior development consent from Council.
- 6.13. The sale of food, as defined in the Food Act 2003 is not permitted on the premises.
- 6.14. 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.

- 6.15. The applicant must ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations and the Noise Policy for Industry (NSW EPA, 2017).
- 6.16. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 6.17. Music and other amplified sound played on the premises must not give rise to offensive noise as defined under the provisions of the Protection of the Environment Operations Act 1997. The sound level output must not exceed five (5) dB(A) above the ambient background level at the boundary of the premises. Speakers must not be installed, and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed to direct the playing of music towards the outdoor areas associated with the premises.
- 6.18. The premises must comply with the requirements of the Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2016.
- 6.19. Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.
- 6.20. 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.
- 6.21. Any lighting of the premises must be installed in accordance with AS 4282-1997, '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.
- 6.22. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 6.23. The approved waste management plan is to be implemented throughout the ongoing use of the development.
- 6.24. The development must operate in full compliance with Council's Waste Management collection requirements.

- 6.25. No external signage is approved under this development consent. External signage details must be submitted to Council for approval prior to installation.
- 6.26. The nominated collect and return collection point is to be utilised to facilitate the collection of waste and recycling bins for the development.
- 6.27. All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal. You must be able to show your waste collection contract if it is requested by a Council Enforcement Officer.
- 6.28. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 6.29. 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.
- 6.30. Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone's role and responsibility. This is to include:
- a. Responsibility for cleaning and maintaining waste storage bins and containers
  - b. Responsibility for cleaning and maintaining waste storage room
  - c. Responsibility for the transfer of bins to the nominated collection point
  - d. Method of communication to new tenants and residents concerning the developments waste management system.
  - e. Cleaning up and management of bulky waste
  - f. Responsibility for maintaining the compost bin or worm farm

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

-END-



---

## Canterbury Bankstown Local Planning Panel - 06 June 2022

---

<b>ITEM 2</b>	<b>DA-1023/2020 - 161-163 Old Kent Road, Greenacre</b>
	<b>Demolition of Existing Structures, consolidation of allotments and construction of a two storey, 92 Place Child Care Centre with basement parking.</b>
<b>FILE</b>	<b>DA-1023/2020 – Darani / Bankstown</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>10 November 2020</b>
<b>APPLICANT</b>	<b>Mr Raymond Saad</b>
<b>OWNERS</b>	<b>S &amp; R Consultants Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$2,172,390</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

In accordance with the Local Planning Panels Direction made by the Minister for Planning, the Canterbury-Bankstown Local Planning Panel is required to determine applications involving development to which ten or more unique submissions against the development have been received. The development proposed under DA-1023/2020 meets this criteria, with 39 submissions and one petition (submitted by 3 separate individuals) with 83 signatures being received and is therefore reported to the Canterbury-Bankstown Local Planning Panel for determination. Note – of the 39 submissions received, only one of the submissions was in support of the development.

Development Application No. DA-1023/2020 proposes the demolition of the existing structures, consolidation of allotments and construction of a two-storey, 92-place childcare centre with basement parking.

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment against the provisions contained in State Environmental Planning Policy No. 55 - Remediation of Land, State Environmental

Planning Policy (Educational Establishments and Child Care Facilities) 2017, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, Bankstown Local Environmental Plan 2015, Draft Consolidated Canterbury Bankstown Local Environmental Plan and Bankstown Development Control Plan 2015. An assessment of the application revealed that the proposal complied with the relevant provisions contained within the above planning legislation.

The application was advertised for a period of 21 days between 2 December 2020 and 13 January 2021. 39 submissions and one petition (submitted by 3 separate individuals) with 83 signatures was received. All but one of these submissions objected to the development proceeding. The attached assessment report provides for a response to the concerns that were raised in these submissions.

## **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 subject to the attached conditions.

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Conditions of Consent

## **ADA-1023/2020 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 161-163 Old Kent Road, Greenacre. The development site is made up of two separate allotments which when combined, results in a conventional regular shaped allotment. The development site is zoned R2 Low Density Residential, has a maximum permissible height of 9m and, in light of the proposed development (being non residential), is subject to a maximum permissible FSR of 0.40:1 under the Bankstown Local Environmental Plan 2015.

The development site is located on the northern side of Old Kent Road, approximately 260m west of its intersection with Noble Avenue, which is controlled by a roundabout and approximately 120m east of its intersection with Hillcrest Avenue. Old Kent Road also connects directly to Stacey Street, which is a State Road approximately 500m west of the site. The site has an area of 1,471m<sup>2</sup> and a frontage to Old Kent Road of 28.82m. The site has a cross fall ranging from 0.9m to 2m running from east to west and currently contains two dwelling houses and four outbuildings. The surrounding context of the area is characterised by residential buildings, ranging from dwelling houses to dual occupancies and multi dwelling housing developments, which vary in age and condition. The context of the site is further demonstrated in the below aerial image:



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

### **PROPOSED DEVELOPMENT**

The development application proposes the demolition of the existing structures and construction of a two-storey, 92-place childcare centre with basement car parking.

The specifics of the development are as follows:

Floor	Description
Basement	Twenty-three (23) car spaces, bicycle rack, storage, waste storage, lift & services.
Ground Floor	Four (4) indoor play areas, outdoor play area, toilets/changing facilities, administration rooms and lift.
First Floor	Indoor play area, staff room, kitchen, library, office, patio, balcony, toilets and lift.

The operational details for the proposed childcare centre are as follows:

Number of children:

- Sixteen (16) x 0-2 year olds;
- Thirty (30) x 2-3 year olds; and
- Forty six (46) x 3-6 year olds.

Number of employees:

- Fifteen (15)

Hours of operation:

- Monday to Friday – 7.00am to 6.00pm
- Closed public holidays and weekends.

### **AMENDMENTS MADE TO THE DEVELOPMENT APPLICATION**

It is worth noting that the application has undergone a number of amendments from the original submission. The most notable of these changes is that the maximum proposed capacity of the centre was reduced from 108 to 92 children (a reduction of 16 children) in order to address a number of non-compliances, and the elevated first floor outdoor play area was removed.

## **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:

- Education and Care Services National Regulations
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
- Bankstown Local Environmental Plan 2015
- Bankstown Development Control Plan 2015
- Child Care Planning Guideline

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)]**

#### **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7 of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) 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, the consent authority must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

A Detailed Site Investigation (DSI) was prepared in support of this application by 'Reditus'. The DSI found that there was minor contamination of heavy metals (zinc and lead) which is localised to shallow soils. The DSI states that ... *the exposure to impacted soil may not result in a human health risk for future site users if the surface layer of the soil were removed to a depth of approximately 0.3m in the vicinity of sample location HA7 following classification in accordance with the NSW EPA (2014) Waste Classification Guidelines.*



A Remediation Action Plan (RAP) was prepared by 'Aargus' for the development to address the remediation of the contamination detailed above. The RAP recommends that the soil around two 'hot-spots' (HA5 & HA7) be excavated to a depth of at least 0.3m, 5m laterally and 0.5m from the vertical extents of where concentrations exceeded the assessment criteria, removed from the site and transported to a NSW EPA licensed landfill facility for disposal.

The submitted DSI and RAP were reviewed by a Council Environmental Health Officer, who determined that based on the submitted information, the application was worthy of support, subject to conditions. As such, it is considered that the proposal is consistent with the requirements of SEPP 55.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 applies to the development and the existing vegetation on the site.

In front of the site in the road reserve, exists a Weeping Bottlebrush. This tree is located away from the proposed driveway and is to be retained and protected during construction.

The development site contains two small exotic trees (species unknown) that are not considered to be significant, or specimens that are worthy of retention. The proposed removal is supported on the condition that replacement species are planted.

Based on the above, it is considered that the proposed development is consistent with the relevant provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

### **State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 applies to the subject application. The table below provides a summary of the assessment of the proposed development against the applicable requirements of Part 3 'Early education and care facilities—specific development controls.

Regulation	Proposed	Compliance
<p>Clause 23 Centre-based childcare facility—matters for consideration by consent authorities</p> <p>Before determining a development application for development for the purpose of a centre-based childcare facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i>, in relation to the proposed development.</p>	<p>An assessment of the proposed development against the Child Care Planning Guideline has been undertaken, with the proposed development being consistent with the relevant provisions.</p>	Yes

<p>Clause 25 Centre-based childcare facility—non-discretionary development standards</p> <p>(1) The object of this clause is to identify development standards for particular matters relating to a centre-based childcare facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based childcare facility:</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space</p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p>	<p>The non-discretionary site area and site dimensions standard allows a childcare centre to be located on a site of any size and have any length of street frontage or any allotment depth.</p> <p>It is noted that this control prevails over the childcare centre capacity requirements of Clause 3.2, Part B6 of BDCP 2015.</p>	Yes
<p>Clause 26 Centre-based childcare facility—development control plans-</p> <p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to</p>	<p>The requirements of this clause were considered during the assessment of the development application. The proposed development is not inconsistent with these requirements.</p>	Yes



<p>development for a centre-based child care facility:</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for childcare services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based childcare facility contained in:</p> <p>(i) the design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p> <p>(2) This clause applies regardless of when the development control plan was made.</p>		
---	--	--

As outlined above, Clause 23 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 requires a consent authority to take into consideration the 'Child Care Planning Guideline' when assessing a development application for a centre-based childcare facility. Accordingly, an assessment of the proposed development against Parts 2, 3 and 4 of the Guideline has been undertaken with compliance being achieved with the relevant provisions. The following table demonstrates compliance with the 'National Quality Framework Assessment Checklist' contained in Part 4, Section D of the Guideline.

<b>Part 4 – Applying the National Regulations</b>		
<b>Regulation</b>	<b>Proposed</b>	<b>Compliance</b>
<p>104. Fencing or barrier that encloses outdoor spaces</p> <p>Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</p>	<p>The proposed childcare centre is to incorporate fencing to the side and rear boundaries of the site to a height of between 1.8m and 2.0m, as well as child-safe balustrading to the pedestrian access ramp and entry area in the front setback of the site.</p>	Yes
<p>106. Laundry and hygiene facilities</p> <p>The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering.</p>	<p>The proposed development incorporates a laundry and hygiene facility on the first floor of the building in an enclosed and secure room, and in a location that does not pose a risk to children.</p>	Yes

Laundry/hygienic facilities are located where they do not pose a risk to children.		
<p>107. Unencumbered indoor space</p> <p>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</p>	<p>The application seeks approval for a maximum capacity of ninety-two (92) children.</p> <p>Required: 299.0 sqm Proposed: 317.7 sqm</p>	Yes
<p>108. Unencumbered outdoor space</p> <p>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</p>	<p>The application seeks approval for a maximum capacity of ninety-two (92) children.</p> <p>Required: 644 sqm Proposed: 644.9sqm</p>	Yes
<p>109. Toilet and hygiene facilities</p> <p>The proposed development includes adequate, developmentally and age-appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.</p> <p>The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.</p>	<p>The proposed toilets and hygiene facilities are considered adequate in terms of size, location, and fixtures suitable for the use of children.</p>	Yes
<p>110. Ventilation and natural light</p> <p>The proposed development includes indoor spaces to be used by children that —</p> <ul style="list-style-type: none"> <li>• will be well ventilated; and</li> <li>• will have adequate natural light; and</li> <li>• can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>	<p>The proposed childcare centre, in particular the indoor play areas, contains multiple windows facing all four aspects to achieve natural light and ventilation to internal areas. Further the centre is able to be maintained at a temperature that ensures the safety and wellbeing of children.</p>	Yes
<p>111. Administrative space</p> <p>The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.</p>	<p>The proposed childcare centre incorporates a reception/office area on the ground floor, as well as a staff room, office and kitchen on the first floor.</p>	Yes
<p>112. Nappy change facilities</p> <p>The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing</p>	<p>The proposed childcare centre incorporates an appropriately designed nappy change area adjoining play room 1 (for 0-2 year olds). The area contains a nappy change bench with two change areas and sanitary facilities.</p>	Yes

<p>facilities for adults in the immediate vicinity of the nappy change area.</p> <p>The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.</p>	<p>The area has been designed in a way that prevents unsupervised access by children.</p>	
<p>113. Outdoor space—natural environment</p> <p>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</p>	<p>The outdoor spaces accommodate a mixture of rubberised softfall, sand pits and landscaping.</p>	Yes
<p>114. Outdoor space—shade</p> <p>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p>The outdoor space accommodates two separate awnings and two shade sails, providing sufficient protection from sunlight.</p>	Yes
<p>115. Premises designed to facilitate supervision</p> <p>The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at all times, having regard to the need to maintain the rights and dignity of the children.</p>	<p>The childcare centre incorporates multiple vision panels between children's play areas and bathroom facilities, and the hallway areas, staff areas and kitchen to facilitate supervision at all times. Screening is provided between each of the children's toilets to maintain dignity.</p>	Yes

As outlined in the tables above, the proposed development satisfies the relevant provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and the Child Care Planning Guideline.

### **Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The subject site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (GMREP 2), being a deemed SEPP under Clause 123 of Schedule 1 of the EP&A (Savings, Transitional and Other Provisions) Regulations 2017. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal has determined that the development is generally consistent with the aims and objectives of the Plan, as well as the planning principles set out in Clause 8 of the GMREP 2.

### **Bankstown Local Environmental Plan 2015**

The following clauses of Bankstown Local Environmental Plan 2015 (BLEP 2015) were taken into consideration:

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.7 – Demolition requires development consent

Clause 4.3 – Height of buildings

Clause 4.4 – Floor Space Ratio

Clause 4.5 – Calculation of floor space ratio and site area

Clause 6.2 – Earthworks

Clause 6.8 – Special provisions applying to centre-based childcare facilities

The following table provides a summary of the assessment of the development application against the primary zoning and numerical controls contained in BLEP 2015.

Standard	Required	Proposed	Compliance
Clauses 2.1-2.3 – Zoning	The site is zoned R2 Low Density Residential	Childcare centres are permitted with consent in the R2 Low Density Residential zone.	Yes
Clause 4.3 – Height of buildings	Max. 9 metres	The proposed development has a maximum building height of 8.6 metres.	Yes
4.4 – Floor space ratio	Max. 0.40:1 (for non-residential development)	0.39:1 (i.e. 450sqm of GFA)	Yes
6.8 – Special provisions applying to centre-based child care facilities	Development consent must not be granted for the purpose of a centre-based child care facility on land if the vehicular access to that land is from: (a) a classified road, or (b) a cul-de-sac or road where the carriageway between kerbs is less than 10 metres.	Old Kent Road is not a classified road.  Old Kent Road is not a cul-de-sac road and does not have a carriageway that is less than 10 metres wide between kerbs.	Yes

It is considered that the proposed development satisfies the applicable aims, objectives and development standards of BLEP 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 was 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 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)]****Bankstown Development Control Plan 2015**

The development application has been assessed against the provisions contained within Parts B5 - Parking, B6 – Child Care Centres and B11 – Tree Preservation Order of the Bankstown Development Control Plan 2015 (BDCP 2015).

**Part B5 – Parking**

Part B5 of BDCP 2015 supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of off-street parking.

Part B5 of the BDCP 2015 provides the following car parking rate for childcare centres:

*1 car space per 4 children and 2 additional car spaces for the exclusive use of any associated dwelling.*

The application proposes 92 children and based on the above rate; 23 car spaces are required to be provided. No dwelling is proposed in association with the use. The proposed 23 car spaces in the basement car park is therefore compliant with Part B5 of the BDCP 2015.

**Part B6 – Child Care Centres**

Part B6 of BDCP 2015 supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of childcare centres. The development controls include storey limits, setbacks, building design, acoustic privacy, landscaping, traffic management, access and parking.

The following table provides a summary of the development against the primary controls contained in Part B6. It is noted, however, that Clause 26 'Centre-based child care facility—development control plans' of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 stipulates that a provision of a development control plan that specifies a requirement, standard or control in relation to operational or management plans or arrangements, demonstrated need or demand for child care services, proximity of facility to other early education and care facilities, and any matter relating to Parts 2, 3 and 4 of the Child Care Planning Guideline, do not apply to development for the purpose of a centre-based child care facility. Accordingly, all development controls relating to these matters have been omitted from the table below.

Control	Required	Proposed	Compliance
2.1 – Traffic management (environmental capacity)	Development for the purpose of childcare centres must not result in a street in the vicinity of the development site to exceed the environmental capacity maximum.	A Traffic and Parking Impact Assessment report was submitted with the development application.	Yes

	If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street.	Council's Traffic Management Team reviewed the report and proposed development. They confirmed that the development is suitable for approval and will not exceed the environmental capacity maximum.	
2.2 – Traffic management (level of service)	<p>Development for the purpose of childcare centres must not result in a street intersection in the vicinity of the development site to have a level of service below Level B.</p> <p>If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.</p>	The submitted Traffic and Parking Impact Assessment assessed the existing performance of Old Kent Road's intersections with Hillcrest and Noble Avenues. The report found that the proposed centre and its traffic impacts were consistent with the BDCP 2015. Council's Traffic Management Team reviewed the submitted report and found that the methodology of the report and the recommendations were sound, and that the proposal was worthy of support based on traffic grounds.	Yes
2.3 – Traffic impact studies	Development applications must submit a Traffic Impact Study based on the RTA Guide to Traffic Generating Developments.	A Traffic and Parking Impact Assessment report was submitted with the development application, reviewed by Council's Traffic Management Team, and is considered to be acceptable.	Yes
3.3 and 3.5 – Storey limit	<p>The storey limit for childcare centres is 2 storeys.</p> <p>Facilities or activities for children aged 0-2 years must solely locate on the first storey (i.e. ground floor) of a building to ensure the safe evacuation of children during emergencies.</p>	<p>The proposed development is a maximum of 2 storeys.</p> <p>Children aged 0-2 will only be located on the ground floor.</p>	<p>Yes</p> <p>Yes</p>
3.6 and 3.9 – Setbacks	The minimum setback for childcare centres in Zone R2 Low Density Residential, Zone R3 Medium Density	<p>Front setback: min. 6 metres.</p> <p>Side setback: min. 1.5 metres.</p>	Yes

	<p>Residential and Zone R4 High Density Residential is:</p> <ul style="list-style-type: none"> <li>(a) 5.5 metres to the primary road frontage;</li> <li>(b) 3 metres to the secondary road frontage; and</li> <li>(c) 1.5 metres to the side boundary.</li> </ul> <p>Childcare centres must ensure the siting of outdoor areas (such as a balcony or deck) and outdoor play areas avoids:</p> <ul style="list-style-type: none"> <li>(a) A living area or bedroom of an adjoining dwelling.</li> <li>(b) A road and driveway that may have noise or a possible pollution impact on children.</li> <li>(c) Any other potential noise or pollution source.</li> <li>(d) Any potential traffic hazard locations where an out-of-control vehicle may injure children.</li> </ul>	<p>The development site does not adjoin a classified road, nor are the siting of outdoor areas likely to create high noise impacts on surrounding residential properties.</p> <p>The recommendations of the Acoustic Report have been incorporated into the design and are included as a condition of consent.</p>	
3.10 – Deep soil zones	<p>Childcare centres in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential must provide:</p> <ul style="list-style-type: none"> <li>(a) a minimum 2-metre-wide deep soil zone along the primary road frontage and secondary road frontage of an allotment; and</li> <li>(b) a minimum 1.5 metre wide deep soil zone around the perimeter of the outdoor play area, to act as a buffer to the fence, provide spatial separation to neighbouring properties and enhance the aesthetic quality of the space.</li> </ul> <p>The deep soil zone must be landscaped by way of deep soil plantings and canopy trees.</p>	<p>The proposed development includes a minimum 6 metre wide deep soil zone along the primary road frontage and a 1.5 metre wide deep soil zone around the perimeter of the outdoor play area. The landscape plan identifies plantings and canopy trees in the deep soil zone that grow up to 15 metres in height at maturity.</p>	Yes



3.12 – Access	Childcare centres must be easily accessible to people with disabilities and must comply with the Building Code of Australia and Australian Standard 1428 Parts 1 to 4– Design for Access and Mobility.	The proposed development was referred to Council's Building Certification Team for review and was considered to be acceptable with respect to accessibility and mobility requirements.	Yes
3.13 and 3.14 – Car parks	<p>The minimum number of car parking spaces required for childcare centres is 1 car space per employee (stack parking is permitted) and 2 additional car spaces for the exclusive use of any associated dwelling.</p> <p>The siting and design of car parks and driveways must ensure the safe movements of people and vehicles to and from childcare centres.</p>	<p>See assessment above under Part B5 of BDCP 2015.</p> <p>The siting and design of the driveway and basement was reviewed by Council's Development Engineering Team and is considered to be acceptable. The design allows all vehicles to enter and exit the site in a forward direction.</p>	Yes
4.1 – Energy efficiency	<p>Childcare centres must make efficient use of natural resources and optimise amenity in the design, construction and occupation of buildings and facilities, such as:</p> <ul style="list-style-type: none"> <li>(a) good orientation and natural light to rooms and play areas;</li> <li>(b) limiting building depth to provide natural cross-ventilation and natural light;</li> <li>(c) minimal use of mechanical ventilation;</li> <li>(d) use of sun shading devices;</li> <li>(e) preventing UV factor to open areas; and</li> <li>(f) ensuring the development adapts to the existing topography by avoiding excessive cut and fill.</li> </ul>	<p>The layout of the childcare centre has been appropriately designed so that indoor and outdoor play areas maximise solar access, shade devices have been proposed to outdoor play areas, and natural cross-ventilation is provided throughout the building.</p> <p>The proposed development does not require excessive cut and fill.</p>	Yes
4.2 and 4.3 – Access to sunlight	The design of buildings should achieve a northern orientation to maximise solar access.	The design and orientation of the childcare centre maximises northern, eastern and western solar access.	Yes

	<p>The design of buildings must ensure that:</p> <p>(a) At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.</p> <p>(b) A minimum 50% of the required private open space for a dwelling that adjoins a development receives at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.</p>	<p>A detailed solar access assessment confirmed that the proposed development satisfies the controls for solar access to the living areas and private open space of surrounding residential properties.</p>	
4.5-4.7 – Building design	<p>Childcare centres with more than 29 children in Zone R2 Low Density Residential must locate in a purpose-built centre. The external building design must give the appearance of a dwelling house.</p> <p>Development for the purpose of new buildings must incorporate architectural elements to articulate the building form and avoid large expanses of blank walls. Architectural elements may include but not be limited to:</p> <p>(a) Defining the base, middle or top of a building using different materials and colours.</p>	<p>The scale of the proposed child centre is such that it will appropriately complement the existing and future residential character of the surrounding area. The development gives the appearance of a dwelling house when viewed from Old Kent Road, as well as the surrounding properties.</p> <p>The design and architectural treatment of the proposed development is appropriate and is considered to respond to and integrate with the existing streetscape, making use of a hipped roof which is the predominate roof type in the visual catchment of the proposed development. The</p>	Yes

	<p>(b) Incorporating horizontal or vertical elements such as recessed walls or banding.</p> <p>(c) Incorporating recessed or partially recessed balconies within the building wall.</p> <p>(d) Defining the window openings, fenestration, balustrade design, building entrances, and doors.</p> <p>(e) Using sun shading devices.</p> <p>(f) Any other architectural feature to the satisfaction of Council.</p> <p>Development for the purpose of new buildings must provide active frontages to the streets and must orientate buildings and pedestrian entrances to the streets.</p>	<p>façade of the development is split into two definable portions, including a brick façade treatment for the portion adjoining 159 Old Kent Road, while using a more contemporary render and weather board for the portion adjoining 165 Old Kent Road. The materials and finishes create visual interest and articulation and depth while ensuring that the development is representative of a dwelling house.</p> <p>The proposed development incorporates a defined front building entrance and pedestrian link to Old Kent Road.</p>	
4.9 – Roof design	<p>Development for the purpose of new buildings must have roof designs that:</p> <p>(a) unify separate or attached buildings with a contemporary architectural appearance; and</p> <p>(b) combine good quality materials and finishes.</p>	<p>The childcare centre roof is of a suitable design and an acceptable finish.</p>	Yes
5.1-5.3 – Acoustic privacy	<p>Air conditioning, mechanical ventilation or any other continuous noise source must not exceed the ambient level at any specified boundary by more than 5dB(A).</p> <p>The location and design of childcare centres must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.</p> <p>The maximum height for noise attenuation walls and fences</p>	<p>The acoustic report was reviewed by Council's Environmental Health Unit and is considered acceptable subject to compliance with the recommendations included in the report.</p> <p>The location, siting, design and acoustic treatment of the development was reviewed and is not considered to result in adverse impacts on the residential amenity of adjoining land.</p>	Yes

	along the boundary of an allotment is 2 metres.		
5.4 – Hours of operation	Council may limit the hours of operation of childcare centres to 7.00am to 6.00pm Monday to Friday.	7.00am to 6.00pm Monday to Friday.	Yes
5.5 – Management plans	Council must require the operator of a childcare centre in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential to organise and chair a Neighbourhood Liaison Committee. The purpose of the Committee is for the operator and neighbours to resolve any issues, such as traffic and noise, arising from the operation of the childcare centre.	This has been recommended as a condition of consent.	Yes
6.1 and 6.2 – Outdoor play areas	<p>The location of outdoor play areas must allow supervision from within the centre.</p> <p>Outdoor play areas must:</p> <p>(a) locate on a land gradient that is predominantly flat;</p> <p>(b) provide access to shade, particularly between 9.30am and 3.00pm during summer months. This may be in the form of a shade structure or natural shade from trees; and</p> <p>(c) consider the surface treatment in accordance with best practice guidelines in early childhood environments.</p>	<p>The outdoor play area is appropriately located and is designed in a manner that allows supervision from various locations within the childcare centre.</p> <p>The gradient of the covered outdoor play area is predominantly flat.</p> <p>The ground floor outdoor play area provides for sufficient area that is shaded from the sun.</p> <p>Appropriate surface treatments are proposed within the outdoor play area, including rubberised soft fall, sand, timber and other suitable materials.</p>	Yes
6.4 – Landscaping	Development applications must submit a detailed landscape plan prepared by a qualified landscape architect.	A detailed landscape plan, prepared by a qualified landscape architect, was submitted with the application.	Yes

	The landscaping of outdoor play areas must not include the species listed in Appendix 2.	The landscape plan does not include any of the 'unsuitable plant species' listed in Appendix 2.	
6.6-6.9 – Retaining walls	<p>Outdoor play areas must avoid retaining walls where possible.</p> <p>The maximum height for retaining walls in outdoor play areas is 400mm above natural ground level and must incorporate a safety fence or the like to prevent accidental falls.</p> <p>Retaining walls must locate agricultural drainage lines:</p> <p>(a) behind the base of the wall and at the foot of the wall; and</p> <p>(b) the drainage lines must connect with the proposed stormwater drainage system of the development.</p> <p>Retaining walls on the boundary of an allotment must be masonry construction.</p>	<p>While some retaining walls are required in the north-western corner of the outdoor play area, these are considered to be unavoidable due to the cross fall of the site. In order to ensure that the retaining walls do not pose a risk to children, the walls have been covered by mounded softfall resulting in a gradual level change between the higher and lower portions of the outdoor play area. This is considered to be an acceptable treatment.</p> <p>A condition of consent is recommended that ensures adequate drainage is installed for the walls and all retaining walls proposed adjacent to the boundary of the site to be of masonry construction.</p>	Yes
7.1-7.5 – Safety and security	<p>The front door and at least one window to buildings must face the street to enable natural surveillance.</p> <p>The street number of buildings must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.</p> <p>Childcare centres must separate the car park and any outdoor play area with a safety fence and gates.</p>	<p>The front door and several windows on the ground and first floors of the childcare centre face the street.</p> <p>A condition of consent is recommended in relation to the design and location of the street number.</p> <p>The outdoor play area is located away from car parking and driveways.</p> <p>A condition of consent has been recommended in relation to the replacement of side and rear boundary fencing.</p>	Yes

	<p>Childcare centres with more than 15 children must erect (at the expense of the applicant) an unscaleable 1.8 metre high lapped timber fence or the like along the side and rear boundaries of the allotment.</p> <p>Childcare centres must provide:</p> <p>(a) safe access for children and people with disabilities; and</p> <p>(b) fire protection and evacuation requirements.</p>	The childcare centre has been suitably designed with respect to accessibility, fire protection and evacuation requirements.	
8.1 – Food premises	<p>The design, construction, and operation of kitchens and food premises must comply with:</p> <p>(a) Food Act 2003;</p> <p>(b) Food Regulation 2010;</p> <p>(c) FSANZ Food Standards Code; and</p> <p>(d) AS 4674:2004 Design, Construction, and Fitout of Food Premises.</p>	Some of the legislation specified in this control is out of date. The proposed development was reviewed by Council's Environmental Health Officer with respect to the design, construction and operation of the kitchen and a condition of consent is recommended to be imposed, requiring compliance with the applicable and current legislation.	Yes
8.2 – Site facilities	<p>Childcare centres must ensure the following facilities are not visible to the street or any nearby public open spaces:</p> <p>(a) waste storage areas;</p> <p>(b) storage of goods and materials; and</p> <p>(c) any clothes drying areas.</p>	<p>The waste storage area is provided within the basement of the development.</p> <p>No storage of goods or materials is proposed to be visible from the street.</p> <p>No clothes drying areas are proposed to be visible from the street.</p>	Yes

#### Part B11 – Tree Preservation Order

The objectives of Part B11 of BDCP 2015 are to sustainably manage tree resources to improve visual, physical and environmental amenity, promote the use of professional standards and best practices in tree management, and to list controls for the pruning, removal and replacement of trees.

As addressed above in the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 assessment, the proposed tree removal and replacement is considered worthy of support.

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

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

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

The development is consistent with the applicable provisions contained in the *Environmental Planning and Assessment Regulation 2000*.

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

The proposed development is not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, the proposed development addresses all applicable development standards and controls. 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 subject site is considered suitable for the proposed development. The proposed development responds to the applicable development standards and controls contained in State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, the Child Care Planning Guideline, BLEP 2015 and BDCP 2015. The proposed development results in an appropriate built form for the site, which is consistent with the existing and desired future character of the area, and the assessment of the application has not identified any unreasonable or adverse impacts on the surrounding residential properties or the broader locality.

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

The application was advertised for a period of twenty one (21) days between 2 December 2020 and 13 January 2021 as required by the Canterbury Bankstown Community Participation Plan. The notification period was 'extended' over the Christmas / New Year period as required by Section 16, Schedule 1 of the EP&A Act 1979. Thirty nine (39) submissions and one petition (submitted by 3 separate individuals) with eighty three (83) signatures was received. One of the submissions received was in support of the application, while the other 38 opposed the development. The objections to the development are addressed below:



*Submission: Traffic*

Response: The applicant prepared an amended Traffic Management Report for the development in response to a number of issues that Council raised with the development and the initial report. This report was reviewed by Council's Traffic Management Team who were satisfied with the methodology of the report, and the recommendations. It is considered that the impact on traffic is consistent with the requirements of the Bankstown Development Control Plan 2015.

*Submission: Demand for Childcare Centre*

Response: Section 26(1)(b) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that Council cannot request for the need or demand of the development to be demonstrated.

*Submission: Size of Centre*

Response: The size of the childcare centre has been reduced to address concerns raised by Council relating to floor space ratio, landscaping and setbacks. As a result, the size of the proposed development is now considered to be worthy of support, as compliance has been demonstrated with all controls that relate to bulk and scale, landscaping and setbacks.

*Submission: Number of Children*

Response: In response to a number of Council's concerns with the development, the applicant has reduced the capacity of the centre by 16 children from 108 to 92 children.

*Submission: Number of storeys*

Response: Council noted during its assessment that the proposed development did not comply with the maximum 2 storey control. As such, the applicant amended the proposed development to comply with this requirement.

*Submission: Bulk and scale*

Response: In order to establish an appropriate bulk and scale of development, Council relies on the maximum floor space ratio control within the Bankstown Local Environmental Plan 2015. While the original development did not comply with the maximum floor space ratio standard, the amended development has demonstrated compliance. Further, it is worth noting that non-residential development in the R2 Low Density Residential zone is limited to an FSR of 0.4:1 as opposed to 0.5:1. As a result, the bulk and scale of the proposed development, is less than that of a residential development that utilises all available FSR.

*Submission: Solar access*

Response: The proposed development complies with the solar access controls contained within the Bankstown Development Control Plan 2015.

*Submission: Visual privacy*

Response: The proposed development complies with the visual privacy controls contained within the Bankstown Development Control Plan 2015.

*Submission: Compatibility with character*

Response: The design and architectural treatment of the proposed development is considered to be appropriate, as it responds to and integrates with the existing streetscape. This is achieved by making use of a hipped roof which is the predominate roof type in the visual catchment of the proposed development. Further, the façade of the development is split into two definable portions, including a brick façade treatment for the portion adjoining 159 Old Kent Road, while using a more contemporary render and weather board for the portion adjoining 165 Old Kent Road. The materials and finishes create visual interest, articulation and depth while ensuring that the development is representative of a dwelling house.

*Submission: Stormwater*

Response: The development incorporates a stormwater management system which has been reviewed by Council's Development Engineers. The system was found to be consistent with the requirements of the Bankstown Development Engineering Standards.

*Submission: Blind spot*

Response: It is noted that the existing road conditions of Old Kent Road may result in sight line issues, due to the crest in the road. In order to address this, the design of the childcare centre was amended to provide for a compliant sight line triangle within the front setback of the development, as well as making the entire frontage of the childcare centre a no-stopping zone for motorists. This was reviewed by Council's Traffic Management Team and considered to be acceptable.

*Submission: Illegal parking*

Response: The potential for illegal parking is not a matter that would warrant refusal of a Development Application.

*Submission: Extent of notification*

Response: The advertisement and notification of the application was undertaken in accordance with the Canterbury Bankstown Community Participation Plan.

*Submission: Acoustic impacts*

Response: The acoustic impacts of the proposed development were assessed in an Acoustic Report prepared by Acouras Consultancy. This report was revised during the assessment of the application and reviewed by Council's Environmental Health Officers, who determined that the methodology and the recommendations of the report were worthy of support. Council does not undertake their own acoustic reports but does a critical review of the consultant reports received.

*Submission: Setbacks*

Response: The proposed setbacks of the development comply with the requirements of the Bankstown Development Control Plan 2015.

*Submission: Errors in acoustic report, waste management plan & traffic report*

Response: Council noted a number of errors in the above mentioned reports during its assessment. The applicant revised these reports and corrected all errors.

*Submission: Signage*

Response: The applicant has not sought consent for any signage as part of this application. Council recommends that a condition of consent be included on any determination notice stating that signage requires separate development consent unless exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

*Submission: Car parking*

Response: The proposed development is required to provide 1 car space per 4 children in accordance with the Bankstown Development Control Plan 2015. This has been provided within the basement car park and as such, the development provides the required car parking.

*Submission: Operating hours*

Response: The proposed operating hours are consistent with the provisions of the Child Care Planning Guideline and the Bankstown Development Control Plan 2015.

*Submission: Proximity to public transport*

Response: While it is not compulsory for a childcare centre to be located within proximity to public transport, a bus stop is located 300m from the proposed centre, which is serviced by a bus that terminates at Bankstown train station.

*Submission: Landscaping*

Response: The proposed landscaping of the development complies with the requirements of the Child Care Planning Guideline and the Bankstown Development Control Plan 2015.

*Submission: Fence height*

Response: The proposed boundary fence is designed in accordance with the recommendations of the submitted Acoustic Report and its height complies with the Bankstown Development Control Plan 2015.

*Submission: Sight lines*

Response: Council's Traffic management team reviewed the amended proposal in relation to compliance with *Australian Standard 2890.1:2004 Figure 3.3 – Minimum Sight Lines for Pedestrian Safety*. The proposal complies with the minimum sight lines and a condition of consent has been recommended that ensures a suitably qualified Traffic Engineer certifies that the sight line has been provided prior to the issue of a construction certificate.

*Submission: Permissibility*

Response: Centre-based childcare facilities are permitted with consent in the R2 Low Density Residential zone under the Bankstown Local Environmental Plan 2015.

*Submission: Demolition (dust)*

Response: It is recommended that a condition of consent requiring a sediment and erosion plan be prepared prior to a Construction Certificate being issued.

*Submission: Expansion into Suva Crescent*

Response: Council is not aware of any plans for the proposed development to extend into Suva Crescent and any proposal for such would require a separate Development Application.

*Submission: Environmental impact*

Response: Council's assessment of the proposal and the fact that the development demonstrates compliance with all relevant controls and policies has informed the assessment of the environmental impacts and determined that any impact is worthy of support.

*Submission: Overdevelopment*

Response: Council does not consider the proposal to represent overdevelopment as compliance with all relevant controls and policies has been achieved.

*Submission: Tandem parking spaces*

Response: The Bankstown Development Control Plan 2015 permits tandem car parking spaces so long as they are not visitor spaces. As the stacked spaces are dedicated to staff, the proposal is acceptable.

*Submission: Potential for building to become vacant*

Response: The potential for the building to become vacant is not a reason that the application should be refused.

*Submission: First floor play area*

Response: Council raised issue with the design of the first floor outdoor play area and as a result, the applicant removed it from the proposal.

*Submission: Indoor/Outdoor play space*

Response: Council's assessment of the unencumbered indoor and outdoor play space found that the proposed development provides sufficient space for 92 children.

*Submission: No Social Impact Statement*

Response: Council does not consider it necessary to provide a social impact statement for the proposed development.

*Submission: Lack of fire exits in basement*

Response: The applicant revised the design of the basement and fire stairs now form part of the proposal.

*Submission: Lack of crossing facilities*

Response: There is no legislative requirement for a pedestrian crossing or the like to be proposed as part of the development.

*Submission: Extent of notification*

Response: The extent of the notification of the application was consistent with the requirements of the Canterbury Bankstown Community Participation Plan.

*Submission: Economic impacts on existing centres*

Response: Council cannot refuse to grant consent to a commercial development on the basis that other commercial developments may be impacted financially by means of competition.

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

It is considered that support of the proposal is in keeping with the public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The assessment above has found that the proposed development is worthy of support, subject to the conditions attached to this report.

**RECOMMENDATION**

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

## 1. CONDITIONS OF CONSENT

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

Plan No.	Plan Name	Date	Revision	Prepared By
02	Site Plan	18.03.22	C	Architex
03	Basement Level	09.06.20	A	
04	Ground Level	18.03.22	C	
05	Level 1			
06	Roof Level			
07	Site Elevations			
08	Site Elevations			
09	Site Sections			
10	Driveway Section + Bin Room Details			
11	Site Details (Arbor Details)			
16	Outdoor Play Area			
17	Childcare Evacuation Plan			
18	Demolition Plan			

Document No.	Document Name	Date	Revision	Prepared By
SYD2020-1048-R001F	Childcare Centre Acoustic Assessment	31/03/2022	New drawings	Acouras Consultancy
-	Amended Waste Management Plan	July 2021	-	Dickens Solutions
20NL074-T4	Traffic Management Report	24 March 2022	-	LOKA Consulting Engineers
21111RP01	Detailed Site Investigation	31 May 2021	1	Reditus
ES8334	Remediation Action Plan	25 August 2021	0	Aargus
20NL074-A3	Access Review Report	15 July 2021	-	LOKA Consulting Engineers
-	Statement of Environmental Effects	28 July 2021	Final	Think Planners
-	Certification and Assessment for a New Child Care Centre (Appendix B – Plan of Management)	28 July 2021	-	Architex

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

- 1.1. Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.
  - (a) The street number of buildings must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.
  - (b) Sight line triangles to pedestrians shall be shown on the site plan at the driveway exit of the development in accordance with AS 2890.1-2004 to comply with Fig 3.3 by a qualified traffic engineer. The design of fencing and landscaping shall be considered in this regard and ensure the retention of the sight lines required. The retaining wall of the OSD shall be designed so as to not obstruct the sight lines. The Construction Certificate plans shall reflect this requirement.
- 1.2. The acoustic report submitted in support of this application prepared by Acouras Consultancy Pty Ltd, titled, 'Mr Raymond Saad, 161-163 Old Kent Road, Greenacre, Childcare Centre Acoustic Assessment', Document Reference: SYD2020-1048-R001E, dated 28 July 2021 and all the recommendations stated within the report, form part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the acoustic report.
- 1.3. The plan of management submitted in support of this application prepared by 'architex' (Ryleton Pty Ltd) dated 28 July 2021, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.
- 1.4. All parts of the premises used for the storage, preparation and handling of food must be designed, constructed and operated in accordance with the requirements of:
  - (a) *The Food Act 2003 and Food Regulation 2015;*
  - (b) *Australia New Zealand Food Standards Code;*
  - (c) *AS 4674-2004, 'Design, construction and fit-out of food premises';*
  - (d) *AS 1668.2 – 'The Use of Ventilation and Air-Conditioning in Buildings – Mechanical Ventilation in Buildings'*
- 1.5. The food preparation area (kitchen) within the childcare centre must be designed, constructed and operated in accordance with the requirements of:
  - (a) *The NSW Food Act 2003 and Food Regulation 2015;*
  - (b) *Australia New Zealand Food Standards Code;*
  - (c) *Australian Standard 4674-2004;*
  - (d) *Australian Standard 1668 Part 1; and*
  - (e) *Australian Standard 1668 Part 2.*



- 1.6. Minimal cooking is permitted on the premises. The combined total power output of all appliances used in the preparation of food is limited any cooking apparatus that has:
  - (a) A total maximum electrical power input exceeding 8 kW; or
  - (b) A total gas power input exceeding 29 MJ/h; or
  - (c) The total maximum power input to more than one apparatus exceeds:
    - (d) 0.5 kW electrical power; or
    - (e) 1.8 MJ gas per m2 of floor area of the room or enclosure.
- 1.7. A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with relevant legislation.
- 1.8. The cost of construction and future maintenance of all acoustic walls is to be borne by the beneficiary of this consent.

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

- 2.1. Development Contributions of \$21,723.90 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Bankstown Development Contributions Plan 2019-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.

- 2.2. 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 'Stand Right Construction & Electrical Pty Ltd', titled 'Remediation Action Plan, 161-163 Old Kent Road, Greenacre NSW', dated 25 August 2021, Document Number: ES8334;
  - 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 experienced 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 an NSW EPA Accredited Site Auditor and Council prior to the continuing of such work.

- 2.3. A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a construction certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.

The landscape plan shall incorporate the following:

- a) 3 x replacement tree/s known to attain a minimum height of 10 metres at maturity in the front setback.
- b) 3 x replacement tree/s known to attain a minimum height of 15 metres at maturity in the rear yard;
  - Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order.
  - Tree species used shall be locally occurring indigenous tree species – refer to Section 14 and Appendix C – Locally Occurring Indigenous Tree Species, in the Bankstown City Council Tree Management Manual;
  - The tree/s shall have a container size not less than 100 litres and shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use
  - The tree/s shall be planted no closer than 3.5metres from the wall of any approved building on the property.
  - The tree/s shall be planted so that future growth is not in conflict with overhead electricity wires or boundary fences.
  - The tree/s shall be maintained for the life of the development.

- 2.4. Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.
- 2.5. Before the issue of a construction certificate or, the person having benefit of this Determination Notice is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- 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 person having benefit of this Determination Notice must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 2.6. 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<sup>TM</sup>.

Refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) for Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPINTM.

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

- 2.7. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.8. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](http://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.

- 2.9. 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.
- 2.10. The landscape plan shall include the provision for the replacement of all boundary fencing. A new fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material, and shall be designed in accordance with the recommendations contained in the Acoustic Report, prepared by *Acouras Consultancy*, titled '*Childcare Centre Acoustic Assessment*', dated 31 March 2022, Reference No. SYD2020-1048-R001F. In the event that an adjoining property owner does not consent to the replacement of the existing dividing fence, the fence may be placed on the inside face of the existing fence line, within the subject property. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- 2.11. A Work Permit shall be applied for and obtained from Council for the following engineering works in front of the site, at the applicant's expense:
- a) A medium duty VFC at the property boundary.
  - b) Construction of new street vehicular crossing stormwater pit as per Standard S-118 and associate 375mm Ø concrete stormwater pipe connecting into existing downstream street stormwater inlet pit.
  - c) Drainage connection to Council's system.
  - d) Concrete footway paving along the site's entire 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 development works.
  - 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: As a site survey and design is required to be prepared by Council in order to determine the necessary information, payment for the Work Permit should be made at least twenty one (21) days prior to the information being required and must be approved prior to the issue of the Construction Certificate.

- 2.12. Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). 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 and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

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

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

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

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

This plan shall include details of the following:

- a. Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b. Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c. Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d. Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e. Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

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

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

- 2.14. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

#### WORKS REQUIRING A 'WORKS PERMIT'

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

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

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

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



pavement to be submitted to Council for approval prior to the issue of the Works Permit.

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

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

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au)

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

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

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

- 2.15. A Trade Waste Agreement shall be obtained from Sydney Water prior to 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.
- 2.16. 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 Principal Certifier prior to the issue of the construction certificate.
  - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.17. An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifier for approval prior to the issue of a construction certificate.
- 2.18. Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. 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 No. 20NL074, Rev E dated 22.03.2022, prepared by LOKA CONSULTING ENGINEERS. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.
- 2.19. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance, aisle widths, aisle lengths, and parking bay dimensions shall be in accordance with the Australian Standard AS 2890 parking series.
- 2.20. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 2.21. The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.
- 2.22. A clear sign shall be provided at entry of the carpark basement level to direct visitors to the pick up and drop off parking spaces. Pick up and drop of parking spaces shall be clearly denoted and marked.

- 2.23. For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 2.24. A dilapidation survey must be undertaken by a professional engineer for all of the adjoining properties and is to detail the physical condition of all structures (including driveways, retaining walls, and other outdoor structures such as carports, pergolas, awnings, pools, fencing etc), both internally and externally, including such elements as walls, ceilings, roofs, structural members and other similar elements. The dilapidation survey must consider structural as well as hydrological and geotechnical factors likely to arise from the development. It must be submitted to the Principal Certifier and all costs associated with preparing the survey must be borne by the person having the benefit of this Determination Notice. This survey must be provided in hard copy to the relevant adjoining property owners prior to the issue of a Construction Certificate.
- 2.25. Prior to the issue of a Construction Certificate, the developer is to apply to the Canterbury Bankstown Traffic Committee, and to the satisfaction of Council's Traffic Engineer, for a no stopping zone to be provided along the entire property frontage at the cost of the developer.
- 2.26. 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 applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 2.27. 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.
- 2.28. Any retaining walls required for the subject development, shall be designed on accordance with clauses 6.7, 6.8 & 6.9 of the BDCP 2015 – Part B6.

- 2.29. A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.  
<https://www.cbcity.nsw.gov.au/council/forms/waste-recycling>

### **3. Conditions to be Satisfied Before Construction.**

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

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

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,
  - b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
  - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
  - d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
    - ii. notified the principal certifier of the appointment, and
    - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
  - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

- 3.3. 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).
- 3.4. 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.
- 3.5. Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 3.6. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.7. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.
- 3.8. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

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

- 3.9. 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 but must be removed when the work has been completed.

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

- 3.10. 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.
- 3.11. Written notice must be given to adjoining residents seven (7) days prior to the commencement of demolition advising of the commencement date.

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

The following inspections must be undertaken by Council:

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

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

Prior to demolition work, a sign must be erected at the front of the property with the demolishers name, licence number and contact phone number. Demolition work may only be carried out between 7.00am and 5.00pm on Monday to Saturday and no demolition work is to be carried out at any time on a Sunday or a public holiday.

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

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

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

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

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

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

#### **4. Conditions to be Satisfied During Construction.**

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

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

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

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

- 4.3. 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.
- 4.4. 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.
- 4.5. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
  - a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
  - b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- 4.6. 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 provided to Council prior to the issue of an Occupation Certificate.

All imported fill must be compatible with the existing soil characteristics of the site.
- 4.7. 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.
- 4.8. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —

- a. Protect and support the building, structure or work from possible damage from the excavation, and
- b. Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- 4.9. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.10. 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.
- 4.11. 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.

- 4.12. 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.

- 4.13. All waste must be transported by a contractor licenced 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.

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.

## **5. Conditions to be Satisfied Before Occupation.**

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. An Occupation Certificate for the completed development must not be issued until all conditions relating to demolition, building have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.3. Twenty three (23) off street car spaces being provided in accordance with the submitted plans. This shall comprise of thirteen (13) spaces for staff and ten (10) spaces for visitors. One (1) of the above car parking spaces is 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, with no visitor spaces being stacked car parking spaces.
- 5.4. An Emergency Response Management Plan shall be prepared and submitted to Principal Certifiers satisfaction. The Plan shall include the following:
- a. List of chemicals and maximum quantities to be stored at the site;
  - b. Identification of potentially hazardous situations;
  - c. Procedure for incident reporting;
  - d. Details of spill stations and signage;
  - e. Containment and clean-up facilities and procedures; and
  - f. The roles of all staff in the plan and details of staff training.
- 5.5. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 5.6. Prior to occupation, the basement car parking shall be line marked and sign posted in accordance with AS2890.:2004. The one-way carparking circulation shall have directional arrows line marked.

- 5.7. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier prior to the issue of an occupation certificate.
- 5.8. Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 5.9. Lighting must be provided to the entry of the child care centre, driveway and parking area to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 5.10. The premises must be readily identified from the street with the allocated house number. The street numbers must be made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building. Numbering of the development without Council's written approval is not permitted.
- 5.11. A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 5.12. An identification report by a registered surveyor must be submitted to the principal certifying authority to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 5.13. Prior to the issue of any Occupation Certificate, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any Occupation Certificate.

- 5.14. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

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

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

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

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

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

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

- 5.16. The Principal Certifying Authority shall obtain a report from a suitably qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate. Suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.
- 5.17. Prior to the issue of any Occupation Certificate, a Food Premises Registration Form must be completed and submitted to Council. This form is available online at [www.cbccity.nsw.gov.au](http://www.cbccity.nsw.gov.au). In the instance details on the original registration form change, Council is to be notified of the change within seven (7) days of the change occurring.

- 5.18. Prior to the issue of an Occupation Certificate, a pre-occupation premises inspection report is to be undertaken by Council's Environmental Health Officer.

## **6. Conditions of Use.**

- 6.1. Twenty three (23) off street car spaces being provided in accordance with the submitted plans. This shall comprise of thirteen (13) spaces for staff and ten (10) spaces for visitors. One (1) of the above car parking spaces is 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, with no visitor spaces being stacked car parking spaces.
- 6.2. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 6.3. The hours of operation of the use shall be limited to between 7:00am to 6:00pm Monday to Friday, and closed on public holidays.
- 6.4. Following occupation of the childcare centre, should it be found that the measures recommended in the acoustic assessment are not sufficient, have been incorrectly installed or a noise issue arises (through complaint or otherwise), the owner/occupier upon request by Council, must employ the services of a suitably qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment and complete an acoustic report with recommendations to rectify the situation. A copy of the acoustic 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 (thirty) days from the date requested by Council.
- 6.5. The childcare centre is restricted to a maximum of ninety-two (92) children at any one time.
- 6.6. 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.
- 6.7. 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.

- 6.8. The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 6.9. All loading and unloading of goods shall take place within the site or from the adjoining service lane in a manner that does not interfere with parking areas, driveways or landscaping.
- 6.10. There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.
- 6.11. All waste materials associated with the use shall be stored in containers located either within the building.
- 6.12. The premises is required to be registered with Council so that regular inspections can be carried out to ensure food safety standards are maintained. A business registration form is available on Council's website which must be completed and submitted to Council prior to the operations commencing
- 6.13. Trading of the Child Care Centre must not commence until a final inspection has been carried out by Council's Environmental Health Officer and ALL conditions of consent have been complied with.
- 6.14. 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.
- 6.15. 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.
- 6.16. Identification number/s are to be conspicuously displayed at the front of the premises.
- 6.17. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.



- 6.18. The operator must organise and chair a Neighbourhood Liaison Committee in accordance with the requirements of Clause 5.5, Part B6 of the Bankstown Development Control Plan 2015. The Neighbourhood Liaison Committee must be formed within six months of the premises commencing operation and the meeting minutes from each meeting must be forwarded to the Council before the following meeting.
- 6.19. Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrance and exits, and the ground floor area of the premises. All CCTV cameras shall have the capacity to store footage for a minimum of 21 days.
- 6.20. The plan of management submitted in support of this application prepared by 'architex' (Ryleton Pty Ltd) dated 28 July 2021, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.
- 6.21. All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal. You must be able to show your waste collection contract if it is requested by a Council Enforcement Officer.
- 6.22. No waste storage containers are to be located or placed outside the approved waste storage area at any time expect for collection purposes.
- 6.23. The applicant must ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations and the 'Noise Policy for Industry' (NSW EPA, 2017).
- 6.24. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 6.25. The operator of the premises shall set up and operate a Neighbourhood Liaison Committee. The purpose of the Committee is for the operator and neighbours to resolve any issues, such as traffic and noise, arising from the operation of the child care centre. Evidence of the formation of this committee must be submitted to Council once operational. The operation of the Committee must ensure:
- (a) The membership of the Neighbourhood Liaison Committee must include residents who live next to and opposite the child care centre.
  - (b) The Neighbourhood Liaison Committee must meet at least four times during the first 24 months of the child care centre operating.
  - (c) The operator of the child care centre must forward the meeting minutes to Committee members.

- (d) The operator of the child care centre may forward the meeting minutes to Council for information purposes
- (e) The operator of the child care centre may terminate the Committee once it meets at least four times during the first 24 months of the child care centre operating, or may choose to extend the function of the Committee over a longer period of time.

6.26. If a complaint is received the complaint should be recorded on a Complaint Form. The Complaint Form should contain the following:

- (a) Name, address and contact details of the Complainant;
- (b) Time and date the complaint was received;
- (c) The nature of the complaint or <sup>1</sup>incident;
- (d) The time and date the incident occurred;
- (e) The name of the employee that received the complaint;
- (f) Actions taken to investigate the complaint and the summary of the results of the investigation;
- (g) Indication of what was occurring at the time the incident was observed;
- (h) Required remedial action;
- (i) Validation of the remedial action;
- (j) Summary of feedback to the Complainant and name of employee who gave the feedback.

The register of complaints should be held on the premises for at least 24 months and shall be reviewed monthly by Management to ensure all complaints are being investigated and resolved in a timely manner. All complaints received shall be reported to Management with initial action/investigation commencing within 7 days.

The Complainant must be notified of the results and actions arising from the investigation. A copy of the register of complaints shall be provided to Council or Police immediately upon request.

<sup>1</sup>Incident includes:

- (a) Any breach of the Plan of Management (where applicable);
- (b) Any complaint by any person about the operation of the premises;
- (c) Any complaint by any person about noise emanating from the premises;
- or
- (d) Any event that may cause concern to any person as a result of the conduct and/or an act of any person(s) on the premises.

-END-



---

## Canterbury Bankstown Local Planning Panel - 06 June 2022

---

<b>ITEM 3</b>	<b>DA-29/2021 - 126 Chester Hill Road Bass Hill</b>
	<b>Construction of a two-storey, 88 place child care centre with basement carparking and landscaping.</b>
<b>FILE</b>	<b>DA-29/2021 - Bura / Bass Hill</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>19 January 2021</b>
<b>APPLICANT</b>	<b>Mr Ibrahim Awad</b>
<b>OWNERS</b>	<b>Zayn Saif Holdings Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$ 2,794,000</b>
<b>AUTHOR</b>	<b>Priscilla Prakash</b>

### REPORT

In accordance with the Local Planning Panels Direction made by the Minister for Planning, the Canterbury-Bankstown Local Planning Panel is required to determine applications involving development to which ten or more unique submissions against the development have been received.

The development proposed under DA-29/2021 meets this criteria, with twenty-six (26) submissions, all in objection to the development proceeding, having being received.

Development Application No. DA-29/2021 proposes the construction of a two-storey, 88-place child care centre with basement parking and associated landscaping at 126 Chester Hill Road in Bass Hill.

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment against the provisions contained in State Environmental Planning Policy No. 55 - Remediation of Land, State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, Bankstown Local Environmental Plan 2015, Draft Consolidated Canterbury Bankstown Local Environmental

Plan and Bankstown Development Control Plan 2015. An assessment of the application revealed that the proposal complied with the relevant provisions contained within the above planning legislation.

The application was advertised for a period of twenty-one (21) days between 17 February 2021 and 10 March 2021. Twenty-six submissions (26) were received, all of which raised objection to various aspects of the development. The attached assessment report provides for a response to the concerns that were raised in these submissions.

## **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 subject to the attached conditions.

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Conditions of Consent

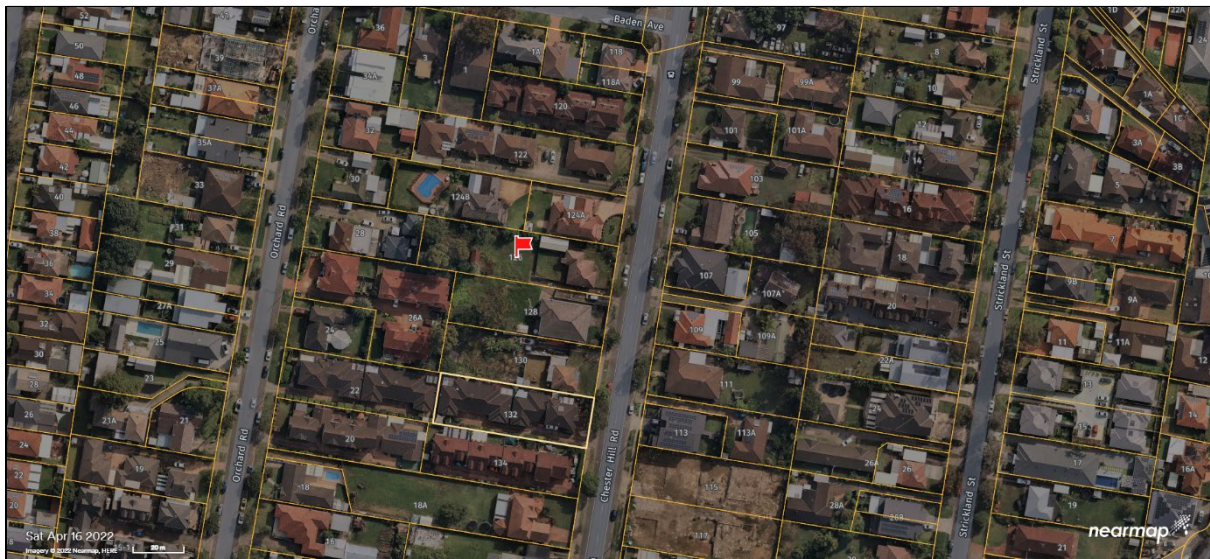
## **DA-29/2021 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as 126 Chester Hill Road, Bass Hill. The development site has an area of 1,556m<sup>2</sup> and is a conventional regular shaped allotment. The development site is zoned R2 Low Density Residential, has a maximum permissible height of 9m and a prescribed maximum permissible FSR of 0.5:1 under the Bankstown Local Environmental Plan 2015 (BLEP). By virtue of the proposal being for the purpose of a childcare centre, the BLEP restricts the development to a maximum FSR of 0.4:1

The development site is located on the western side of Chester Hill Road, approximately 350m north of the Hume Highway. The site has a fall of approximately 1.45 metres from the front to the rear of the site. The site currently contains a single storey cottage, two sheds, chicken coop and associated landscaping.

The surrounding context of the area is characterised by various forms of residential development, consisting of dwelling houses, dual occupancies and multi dwelling housing developments. These vary in age and condition. The context of the site is further demonstrated in the aerial image below:



**Figure 1:** Aerial of subject site marked in red **Source:** NearMap 2022

### **PROPOSED DEVELOPMENT**

The development application proposes the construction of a two-storey, 88 place childcare centre with basement carparking and associated landscaping.

The specifics of the development are as follows:

Floor	Description
Basement	Twenty-two (22) car spaces, one motorbike parking space, lift & services.
Ground Floor	Three (3) indoor play areas, outdoor play area, toilets/changing facilities, outdoor storage room, cot room, office, kitchen, general storage, laundry, cleaners closets, bin room, lift and stairway.
First Floor	Four (4) indoor play areas, staff room, meeting room, associated storerooms, office, staff room, student and staff toilet facilities, lift, and stairway.

The operational details for the proposed child care centre are as follows:

Number of children:

- Twelve (12) x 0-2-year olds;
- Twenty-five (25) x 2-3 year olds; and
- Fifty-one (51) x 3-6 year olds.

Number of employees:

- Fourteen (14)

Hours of operation:

- Monday to Friday – 7.00am to 6.00pm

### **AMENDMENTS MADE TO THE DEVELOPMENT APPLICATION**

It is worth noting, that the application has undergone several amendments from the original submission. The most notable of these changes are identified below:

- Removal of the demolition works from this application (demolition works were subsequently approved under DA-52/2021 on 4 March 2021);
- The maximum capacity of the centre was reduced from 108 to 88 children (a reduction of 20 children);
- The elevated first floor outdoor play area was removed;
- The setback of the basement increased along the northern boundary;
- The stormwater disposal method has been amended to be via an easement over a downstream property; and
- The basement carparking layout was reconfigured.

In response to the above amendments that were made by the applicant, the following documents were furnished to Council;



- Revised architectural plans, set entitled 'Proposed New Childcare Centre 126 Chester Hill Road, Bass Hill, dated 19 April 2022 as prepared by Archizen Architects.
- A revised acoustic statement, entitled 'Confirmation of Findings & Recommendations of the Original Acoustic Report. Final Plans & Drawings' dated 2 May 2022 as prepared by NG Child & Associates.
- A revised traffic statement, entitled 'Traffic and Parking Matters', dated 29 April 2022 as prepared by Varga Traffic Planning Pty Ltd.
- Revised hydraulic plans, entitled 'Basement Stormwater Drainage Concept plan', 'Ground Floor, Site and Easement Stormwater Drainage Concept Plan' and 'OSD Detail and Calculation', dated 28 April 22 as prepared by LMW Design Group P/L.

### **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:

- Education and Care Services National Regulations
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Bankstown Local Environmental Plan 2015
- Bankstown Development Control Plan 2015
- Child Care Planning Guideline

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

Previous Policy	Current Policy	Savings Provisions
State Environmental Planning Policy No 55 – Remediation of Land	State Environmental Planning Policy (Resilience and Hazards) 2021	No
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017	State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes (for new chapter 3 – Educational establishments and child care facilities)
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	State Environmental Planning Policy (Biodiversity and Conservation) 2021	No
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment		No

#### 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 No 55 – Remediation of Land**

Clause 7 of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) 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, the consent authority must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

A Preliminary Site Investigation (PSI) was prepared in support of this application by 'Alliance Geotechnical'. The PSI found that there were several noted contaminants in the soil. These include *'the eight priority heavy metals (HMs): arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc, total recoverable hydrocarbons (TRH), polycyclic aromatic hydrocarbons (PAH), benzene, toluene, ethylbenzene, xylenes, and naphthalene (BTEXN), organochlorine pesticides (OCP), polychlorinated biphenyls (PCB), and asbestos.'* The report notes the source of these contaminants is likely to be the imported soil across the site, weathering from building structures, historical pesticide use and uncontrolled demolition of former site structures. The report concluded that *'the site will be suitable for the proposed childcare use following the removal of site filling and shallow soils from the site footprint'*.

A supplementary contamination assessment report prepared by Alliance Geotechnical Pty Ltd, was submitted by the applicant to address the above findings. This report confirmed the above findings and noted an estimated 550m<sup>3</sup> of contaminated fill on the site. This report noted remedial works would be required for the site to be made suitable for use for the purpose of a childcare centre.

A Remedial Action Plan (RAP) was prepared by 'Alliance Geotechnical Pty Ltd' for the development to address the remediation of the contamination detailed above. The RAP identified uncontrolled filling throughout the site. It is acknowledged that a large portion of the site is to be occupied by the proposed basement. The material in this section will be excavated, removed from the site, and transported to a NSW EPA licensed landfill facility for disposal. The area outside of the basement footprint is identified as AEC01 and AEC03. AEC01 is, in the most part, the proposed outdoor play area outside the basement excavation and has an area of approximately 499m<sup>2</sup> and a depth of ~1.1m (hence an indicative volume of 550m<sup>3</sup>). Bonded Asbestos Containing Material (ACM) is noted in this area and the recommended method of remediation is to rake and hand pick the ACM fragments. This material is then to be disposed of at a suitably licensed waste receiving facility. AEC 03 is the landscape area adjacent to the eastern boundary and covers an area of 79m<sup>2</sup> by 0.2m deep (hence an indicative volume of 16m<sup>3</sup>). This area is noted to have the presence of bonded ACM and Asbestos Fibres (AF). The recommendation is to excavate the soil and dispose of this at a licensed landfill facility. The extent of these works is noted on the plan below.



**Figure 2:** Extent of remediation **Source:** Drawing Number 7 – Figures, Remedial Action Plan, Report No 11480-ER-1-3, dated 19/11/2021, Prepared by Alliance Geotechnical Pty Ltd.

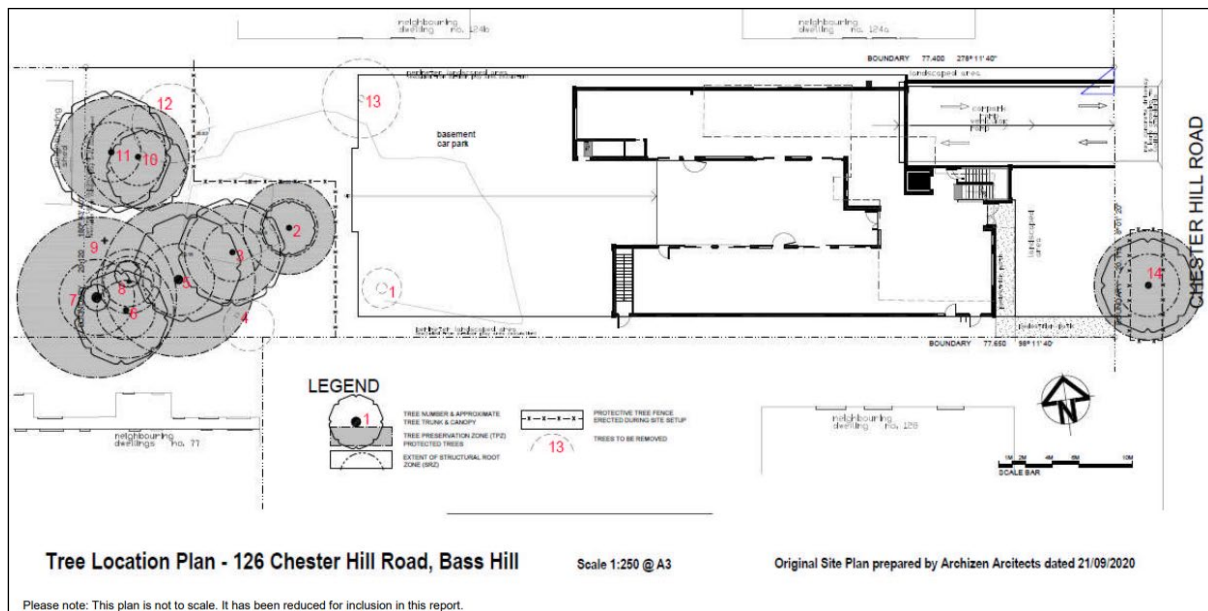
The submitted DSI, supplementary report and RAP were reviewed by a Council Environmental Health Officer, who determined that based on the submitted information, that the application was worthy of support, subject to conditions. As such, it is considered that the proposal is consistent with the requirements of SEPP 55.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 applies to the development and the existing vegetation on the site.

In front of the site in the road reserve, exists a Brush Box (*Lophostemon confertus*, T14). This tree is located away from the proposed driveway and is to be retained and protected during construction.

The development site itself contains thirteen (13) trees of which eight (8) are sought to be retained. As marked on the site plan below, these trees are T2 and T5 (Grey Box), T3 (Red Iron Bark), T6 (Prickley Paper Bark), T7 (Mexican Fan Palm), T8 (Iron Bark), T10 (Narrow Leafed Paper Bark) and T11 (Sydney Blue Gum).



**Figure 3: Tree Location Plan** Source: Appendix I, Arboricultural Impact Assessment, Dated 25 October 2020 (Page 35).

The trees the applicant seeks to retain are grouped at the rear of the site and are located a suitable distance away from the centre to ensure their continual survival. Their retention will positively contribute to the amenity of the development. In addition to providing a continual presence, the trees will contribute and provide for a positive landscape and recreational amenity for the users of the facility. Council's review of the submitted arborist report concurred with the recommendation that the trees sought to be retained are currently in good health as such do not present a direct safety concern to the children and staff of the facility.

Based on the above, it is considered that the proposed development is consistent with the relevant provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

## State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 applies to the subject application. The table below provides a summary of the assessment of the proposed development against the applicable requirements of Part 3 'Early education and care facilities—specific development controls'.

Regulation	Proposed	Compliance
<p>Clause 23 Centre-based child care facility—matters for consideration by consent authorities</p> <p>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i>, in relation to the proposed development.</p>	<p>An assessment of the proposed development against the Child Care Planning Guidelines has been undertaken with the proposed development being consistent with the relevant provisions.</p>	Yes
<p>Clause 25 Centre-based child care facility—non-discretionary development standards</p> <p>(1) The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevents the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space</p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions</p>	<p>The non-discretionary site area and site dimensions standard allows a child care centre to be located on a site of any size and have any length of street frontage or any allotment depth.</p> <p>It is noted that this control prevails over the child care centre capacity requirements of Clause 3.2, Part B6 of BDCP 2015.</p>	Yes



<p>Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p>		
<p>Clause 26</p> <p>Centre-based child care facility—development control plans</p> <p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for a centre-based child care facility:</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in:</p> <p>(i) the design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p> <p>(2) This clause applies regardless of when the development control plan was made.</p>	<p>The requirements of this clause were considered during the assessment of the development application. The proposed development is not inconsistent with these requirements.</p>	<p>Yes</p>

As outlined above, Clause 23 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 requires a consent authority to take into consideration the 'Child Care Planning Guideline' when assessing a development application for a centre-based child care facility.

Accordingly, an assessment of the proposed development against Parts 2, 3 and 4 of the Guideline has been undertaken with compliance being achieved with the relevant provisions. The following table demonstrates compliance with the 'National Quality Framework Assessment Checklist' contained in Part 4, Section D of the Guideline.

<b>Part 4 – Applying the National Regulations</b>		
<b>Regulation</b>	<b>Proposed</b>	<b>Compliance</b>
<p>104. Fencing or barrier that encloses outdoor spaces</p> <p>Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.</p>	<p>The proposed child care centre is to incorporate fencing to the side and rear boundaries of the site. The acoustic fencing is to be a maximum height of 2m, consistent with the recommendations of the submitted acoustic report.</p>	Yes
<p>106. Laundry and hygiene facilities</p> <p>The proposed development includes laundry facilities or access to laundry facilities OR explain the other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage of soiled clothing, nappies and linen prior to their disposal or laundering.</p> <p>Laundry/hygienic facilities are located where they do not pose a risk to children.</p>	<p>The proposed development incorporates a laundry and hygiene facility on the ground floor of the building in an enclosed and secure room. It is considered this location does not pose a risk to children.</p>	Yes
<p>107. Unencumbered indoor space</p> <p>The proposed development includes at least 3.25 square metres of unencumbered indoor space for each child.</p>	<p>The amended application seeks approval for a maximum capacity of eighty-eight (88) children.</p> <p>Required: 286 sqm Proposed: 356.7 sqm</p>	Yes
<p>108. Unencumbered outdoor space</p> <p>The proposed development includes at least 7.0 square metres of unencumbered outdoor space for each child.</p>	<p>The amended application seeks approval for a maximum capacity of eighty-eight (88) children.</p> <p>Required: 616 sqm Proposed: 757.4 sqm</p>	Yes
<p>109. Toilet and hygiene facilities</p> <p>The proposed development includes adequate, developmentally, and age-appropriate toilet, washing and drying facilities for use by children being educated and cared for by the service.</p> <p>The location and design of the toilet, washing and drying facilities enable safe and convenient use by the children.</p>	<p>The proposed toilets and hygiene facilities are considered adequate in terms of size and location. The proposed fixtures are suitable for the use of children. These facilities have a high level of surveillance and are assigned purely for the use of the children.</p>	Yes
<p>110. Ventilation and natural light</p> <p>The proposed development includes indoor</p>	<p>The indoor play areas contain multiple windows facing all four aspects to achieve natural light and</p>	Yes



spaces to be used by children that — <ul style="list-style-type: none"> <li>• will be well ventilated; and</li> <li>• will have adequate natural light; and</li> <li>• can be maintained at a temperature that ensures the safety and well-being of children.</li> </ul>	ventilation to internal areas. The northern section of the centre benefits from direct solar access with a rear recess to assist in natural ventilation to the whole centre.	
<p>111. Administrative space</p> <p>The proposed development includes an adequate area or areas for the purposes of conducting the administrative functions of the service; and consulting with parents of children; and conducting private conversations.</p>	<p>The proposed child care centre incorporates a reception, office, and kitchen on the ground floor, as well as a staff room and office on the first floor.</p> <p>These rooms are considered suitable for the uses outlined in this guide.</p>	Yes
<p>112. Nappy change facilities</p> <p>The proposed development includes an adequate area for construction of appropriate hygienic facilities for nappy changing including at least one properly constructed nappy changing bench and hand cleansing facilities for adults in the immediate vicinity of the nappy change area.</p> <p>The proposed nappy change facilities can be designed and located in a way that prevents unsupervised access by children.</p>	<p>The proposed child care centre incorporates an appropriately designed nappy change area adjoining play room 1 (for 0-2-year-olds). Access is also available from the outdoor play area.</p> <p>The area contains a nappy change bench with three (3) change tables and sanitary facilities.</p> <p>The area has been designed in a way that prevents unsupervised access by children.</p>	Yes
<p>113. Outdoor space—natural environment</p> <p>The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment.</p>	The outdoor space is proposed to provide multiple design features such as a sandpit, trampolines, mount and tunnel, foot bridge, water pump, balance beam, cubby house, stage, racetrack and vegetable garden.	Yes
<p>114. Outdoor space—shade</p> <p>The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	The outdoor play area is to have the benefit of natural shade provided by the existing trees to be retained at the rear of the site. The design of the building including an extended roofline and the orientation of the site provides for passive shading.	Yes
<p>115. Premises designed to facilitate supervision</p> <p>The proposed development (including toilets and nappy change facilities) are designed in a way that facilitates supervision of children at</p>	The child care centre incorporates multiple windows and sliding doors between children's play areas and bathroom facilities. The bathroom facilities provide for a safe space with supervision but also maintain	Yes

all times, having regard to the need to maintain the rights and dignity of the children.	dignity and autonomy for the children.	
--	--	--

As outlined in the tables above, the proposed development satisfies the relevant provisions of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and the Child Care Planning Guideline.

### **Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The subject site is located within land identified as being affected by Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (GMREP 2), being a deemed SEPP under Clause 123 of Schedule 1 of the EP&A (Savings, Transitional and Other Provisions) Regulations 2017. The GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal has determined that the development is generally consistent with the aims and objectives of the Plan, as well as the planning principles set out in Clause 8 of the GMREP 2.

### **Bankstown Local Environmental Plan 2015**

The following clauses of Bankstown Local Environmental Plan 2015 (BLEP 2015) were taken into consideration:

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 4.3 – Height of buildings

Clause 4.4 – Floor Space Ratio

Clause 4.5 – Calculation of floor space ratio and site area

Clause 5.21 – Flood Planning

Clause 6.2 – Earthworks

Clause 6.8 – Special provisions applying to centre-based child care facilities

The following table provides a summary of the assessment of the development application against the primary zoning and numerical controls contained in BLEP 2015.

<b>Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Compliance</b>
Clauses 2.1-2.3 – Zoning	The site is zoned R2 Low Density Residential	Child care centres are permitted with consent in the R2 Low Density Residential zone.	Yes
Clause 4.3 – Height of buildings	Max. 9 metres	The proposed development has a maximum building height of 8.8 metres.	Yes
4.4 – Floor space ratio	Max. 0.40:1 (for non-residential development)	0.3978:1 (i.e. 618.9sqm of GFA)	Yes

Standard	Required	Proposed	Compliance
6.8 – Special provisions applying to centre-based child care facilities	Development consent must not be granted for the purpose of a centre-based child care facility on land if the vehicular access to that land is from: (a) a classified road, or (b) a cul-de-sac or road where the carriageway between kerbs is less than 10 metres.	Chester Hill Road is not a classified road nor is it a cul-de-sac road. It does not have a carriageway that is less than 10 metres wide between kerbs.	Yes

It is considered that the proposed development satisfies the applicable aims, objectives, and development standards of BLEP 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 was 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 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 consistent with the draft instrument.

**Development Control Plans [section 4.15(1)(a)(iii)]**

**Bankstown Development Control Plan 2015**

The development application has been assessed against the provisions contained within Parts B5 - Parking, B6 – Child Care Centres and B11 – Tree Preservation Order of the Bankstown Development Control Plan 2015 (BDCP 2015).

**Part B5 – Parking**

Part B5 of BDCP 2015 supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of off-street parking.

Part B5 of the BDCP 2015 provides the following car parking rate for child care centres:

*1 car space per 4 children and 2 additional car spaces for the exclusive use of any associated dwelling.*

The application proposes eighty-eight (88) children and based on the above rate, twenty-two (22) car spaces are required to be provided. No dwelling is proposed in association with the use. The proposed basement car parking arrangement is therefore compliant with Part B5 of the BDCP 2015.

The arrangement of the carpark has been reviewed by Council's development engineer and is generally satisfactory. The parallel parking spaces along the northern wall of the basement are provided with a length of 5.9m. These spaces are required to be 6.1m in length to comply with AS2890.1. It is recommended that a condition of consent be imposed to extend the basement 900mm to the rear to allow for the additional 300mm to the three (3) identified spaces. This extension does not result in an adverse impact to the adjacent tree (T2 – Grey Box) required to be retained on site.

#### Part B6 – Child Care Centres

Part B6 of BDCP 2015 supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of child care centres. The development controls include storey limits, setbacks, building design, acoustic privacy, landscaping, traffic management, access, and parking.

The following table provides a summary of the development against the primary controls contained in Part B6. It is noted, however, that Clause 26 'Centre-based child care facility—development control plans' of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 stipulates that a provision of a development control plan that specifies a requirement, standard or control in relation to operational or management plans or arrangements, demonstrated need or demand for child care services, proximity of facility to other early education and care facilities, and any matter relating to Parts 2, 3 and 4 of the Child Care Planning Guideline, do not apply to development for the purpose of a centre-based child care facility. Accordingly, all development controls relating to these matters have been omitted from the table below.

Control	Required	Proposed	Compliance
2.1 – Traffic management (environmental capacity)	Development for the purpose of child care centres must not result in a street in the vicinity of the development site to exceed the environmental capacity maximum.  If the environmental capacity maximum is already exceeded, the development must maintain the existing level of absolute delay of that street.	A Traffic and Parking Assessment report was submitted with the development application.  Council's Traffic Management Team reviewed the report and proposed development. They confirmed that the development is suitable for approval and will not exceed the environmental capacity maximum.	Yes
2.2 – Traffic management (level of service)	Development for the purpose of child care centres must not result in a street intersection	The submitted Traffic and Parking Assessment report assessed the existing	Yes

	<p>in the vicinity of the development site to have a level of service below Level B.</p> <p>If the existing level of service is below Level B, the development must maintain the existing level of absolute delay of that street intersection.</p>	<p>performance of Chester Hill Road's intersections with Baden Ave. The report found that the proposed centre and its traffic impacts were consistent with the BDCP 2015. Council's Traffic Management Team reviewed the submitted report and found that the methodology of the report and the recommendations were sound and that the proposal was worthy of support based on traffic grounds.</p>	
2.3 – Traffic impact studies	<p>Development applications must submit a Traffic Impact Study based on the RTA Guide to Traffic Generating Developments.</p>	<p>A Traffic and Parking Assessment report was submitted with the development application, reviewed by Council's Traffic Management Team, and is considered to be acceptable.</p>	Yes
3.3 and 3.5 – Storey limit	<p>The storey limit for child care centres is 2 storeys.</p> <p>Facilities or activities for children aged 0-2 years must solely locate on the first storey (i.e. ground floor) of a building to ensure the safe evacuation of children during emergencies.</p>	<p>The proposed development is a maximum of 2 storeys.</p> <p>Children aged 0-2 will only be located on the ground floor (room 1).</p>	<p>Yes</p> <p>Yes</p>
3.6 and 3.9 – Setbacks	<p>The minimum setback for child care centres in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential is:</p> <ul style="list-style-type: none"> <li>(a) 5.5 metres to the primary road frontage.</li> <li>(b) 3 metres to the secondary road frontage; and</li> <li>(c) 1.5 metres to the side boundary.</li> </ul> <p>Child care centres must ensure the siting of outdoor areas (such as a balcony or deck) and outdoor play areas avoids:</p>	<p>The subject site is zoned in the R2 Low Density Residential.</p> <p>Front setback: 7.8 metres to the primary road frontage.</p> <p>Side setback: 1.5 metres to the sites northern and southern boundaries.</p> <p>The development site does not adjoin a classified road, nor are the siting of outdoor areas likely to create unacceptable noise impacts on surrounding residential properties.</p>	Yes

	<p>(a) A living area or bedroom of an adjoining dwelling.</p> <p>(b) A road and driveway that may have noise or a possible pollution impact on children.</p> <p>(c) Any other potential noise or pollution source.</p> <p>(d) Any potential traffic hazard locations where an out-of-control vehicle may injure children.</p>	The recommendations of the Acoustic Report have been incorporated into the design and are included as a condition of consent.	
3.10 – Deep soil zones	<p>Child care centres in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential must provide:</p> <p>(a) a minimum 2-metre-wide deep soil zone along the primary road frontage and secondary road frontage of an allotment; and</p> <p>(b) a minimum 1.5 metre wide deep soil zone around the perimeter of the outdoor play area, to act as a buffer to the fence, provide spatial separation to neighbouring properties and enhance the aesthetic quality of the space.</p> <p>The deep soil zone must be landscaped by way of deep soil plantings and canopy trees.</p>	The proposed development includes a minimum 5.7-metre-wide deep soil zone along the primary road frontage and a 1.5-metre-wide deep soil zone around the perimeter of the outdoor play area. The landscape plan identifies screen planting and canopy trees in the deep soil zone. Significant existing planting is to be retained toward the rear of the site.	Yes
3.12 – Access	Child care centres must be easily accessible to people with disabilities and must comply with the Building Code of Australia and Australian Standard 1428 Parts 1 to 4–Design for Access and Mobility.	The proposed development was referred to Council's Building Certification Team for review and was acceptable with respect to accessibility and mobility requirements.	Yes
3.13 and 3.14 – Car parks	The minimum number of car parking spaces required for child care centres is 1 car space per employee (stack	See assessment above under Part B5 of BDCP 2015.	Yes

	<p>parking is permitted) and 2 additional car spaces for the exclusive use of any associated dwelling.</p> <p>The siting and design of car parks and driveways must ensure the safe movements of people and vehicles to and from child care centres.</p>	<p>The siting and design of the driveway and basement was reviewed by Council's Development Engineering Team and is acceptable. The design allows all vehicles to enter and exit the site in a forward direction.</p>	
4.1 – Energy efficiency	<p>Child care centres must make efficient use of natural resources and optimise amenity in the design, construction and occupation of buildings and facilities, such as:</p> <ul style="list-style-type: none"> <li>(a) good orientation and natural light to rooms and play areas;</li> <li>(b) limiting building depth to provide natural cross-ventilation and natural light;</li> <li>(c) minimal use of mechanical ventilation;</li> <li>(d) use of sun shading devices;</li> <li>(e) preventing UV factor to open areas; and</li> <li>(f) ensuring the development adapts to the existing topography by avoiding excessive cut and fill.</li> </ul>	<p>The layout of the child care centre has been appropriately designed so that indoor and outdoor play areas maximise solar access and natural cross-ventilation is provided throughout the building.</p> <p>The proposed development does not require excessive cut and fill.</p> <p>A maximum of 700mm fill is proposed to ensure the proposed basement and associated floor levels provide sufficient clearance to the existing sewer pipe. This fill is to be supported within the site by retaining walls. It is not considered this will result in any impacts that have not been considered and mitigated by the applicant (visual, acoustic, and environmental).</p>	Yes
4.2 and 4.3 – Access to sunlight	<p>The design of buildings should achieve a northern orientation to maximise solar access.</p> <p>The design of buildings must ensure that:</p> <ul style="list-style-type: none"> <li>(a) At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this</li> </ul>	<p>The design and orientation of the child care centre maximises northern, eastern, and western solar access.</p> <p>A detailed assessment confirms that the proposal will not impact the solar amenity of the dwelling at 128 Chester Hill Road in the morning and late afternoon. This ensures a minimum three (3) hours of direct sunlight to the kitchen,</p>	Yes



	<p>requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.</p> <p>(b) A minimum 50% of the required private open space for a dwelling that adjoins a development receives at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.</p>	front lounge and upper rumpus.	
4.5-4.7 – Building design	<p>Child care centres with more than 29 children in Zone R2 Low Density Residential must locate in a purpose-built centre. The external building design must give the appearance of a dwelling house.</p> <p>Development for the purpose of new buildings must incorporate architectural elements to articulate the building form and avoid large expanses of blank walls. Architectural elements may include but not be limited to:</p> <p>(a) Defining the base, middle or top of a building using different materials and colours.</p> <p>(b) Incorporating horizontal or vertical elements such as recessed walls or banding.</p> <p>(c) Incorporating recessed or partially recessed balconies within the building wall.</p>	<p>The scale of the proposed child centre is consistent with the size of the allotment (1556sqm).</p> <p>The building will appropriately complement the existing and future residential character of the surrounding area and the development gives the appearance of a dwelling house when viewed from Chester Hill Road.</p> <p>The design and architectural treatment of the proposed development is appropriate and is considered to respond to and integrate with the existing streetscape, making use of a hipped roof which is the predominate roof type in the visual catchment of the proposed development. The façade, materials and finishes create visual interest and articulation and depth while ensuring that the development is representative of a dwelling house.</p>	Yes

	<p>(d) Defining the window openings, fenestration, balustrade design, building entrances, and doors.</p> <p>(e) Using sun shading devices.</p> <p>(f) Any other architectural feature to the satisfaction of Council.</p> <p>Development for the purpose of new buildings must provide active frontages to the streets and must orientate buildings and pedestrian entrances to the streets.</p>	The proposed development incorporates a defined front building entrance and pedestrian link to Chester Hill Road.	
4.9 – Roof design	<p>Development for the purpose of new buildings must have roof designs that:</p> <p>(a) unify separate or attached buildings with a contemporary architectural appearance; and</p> <p>(b) combine good quality materials and finishes.</p>	The child care centre roof is of a suitable design and an acceptable finish.	Yes
5.1-5.3 – Acoustic privacy	<p>Air conditioning, mechanical ventilation or any other continuous noise source must not exceed the ambient level at any specified boundary by more than 5dB(A).</p> <p>The location and design of child care centres must consider the projection of noise from various activities to avoid any adverse impacts on the residential amenity of adjoining land.</p> <p>The maximum height for noise attenuation walls and fences along the boundary of an allotment is 2 metres.</p>	<p>The original acoustic report and supplementary report was reviewed by Council's Environmental Health Unit and is considered acceptable subject to compliance with the recommendations included in the reports.</p> <p>The location, siting, design, and acoustic treatment of the development was reviewed and is not considered to result in adverse impacts on the residential amenity of adjoining land. The acoustic fencing is to be contained wholly within the development site.</p>	Yes
5.4 – Hours of operation	Council may limit the hours of operation of child care centres to 7.00am to 6.00pm Monday to Friday.	7.00am to 6.00pm Monday to Friday.	Yes

5.5 Management plans –	Council must require the operator of a child care centre in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential to organise and chair a Neighbourhood Liaison Committee. The purpose of the Committee is for the operator and neighbours to resolve any issues, such as traffic and noise, arising from the operation of the child care centre.	This has been recommended as a condition of consent.	Yes
6.1 and 6.2 – Outdoor play areas	<p>The location of outdoor play areas must allow supervision from within the centre.</p> <p>Outdoor play areas must:</p> <ul style="list-style-type: none"> <li>(a) locate on a land gradient that is predominantly flat;</li> <li>(b) provide access to shade, particularly between 9.30am and 3.00pm during summer months. This may be in the form of a shade structure or natural shade from trees; and</li> <li>(c) consider the surface treatment in accordance with best practice guidelines in early childhood environments.</li> </ul>	<p>The outdoor play area is appropriately located and is designed in a manner that allows supervision from various locations within the child care centre. The building is centred around this space.</p> <p>The gradient of the covered outdoor play area has a gentle fall to the rear of the allotment.</p> <p>Appropriate surface treatments and interactive play features are proposed within the outdoor play area. This includes rubberised soft fall, sand pit, timber platforms and bridges, trampolines, and water play.</p>	Yes
6.4 Landscaping –	<p>Development applications must submit a detailed landscape plan prepared by a qualified landscape architect.</p> <p>The landscaping of outdoor play areas must not include the species listed in Appendix 2.</p>	<p>A detailed landscape plan, prepared by a qualified landscape architect, was submitted with the application.</p> <p>The landscape plan does not include any of the 'unsuitable plant species' listed in Appendix 2.</p>	Yes

		Minor building changes will require the landscape plan to be updated for the Construction Certificate plans (CC). A condition of consent will be imposed accordingly.	
6.6-6.9 – Retaining walls	<p>Outdoor play areas must avoid retaining walls where possible.</p> <p>The maximum height for retaining walls in outdoor play areas is 400mm above natural ground level and must incorporate a safety fence or the like to prevent accidental falls.</p> <p>Retaining walls must locate agricultural drainage lines:</p> <p>(a) behind the base of the wall and at the foot of the wall; and</p> <p>(b) the drainage lines must connect with the proposed stormwater drainage system of the development.</p> <p>Retaining walls on the boundary of an allotment must be masonry construction.</p>	<p>While some retaining walls are required along the side boundaries, these walls are separated from the outdoor play area by a 1.5m wide landscape buffer.</p> <p>The retaining walls are unavoidable due to the cross fall of the site and the fill required to achieve clearance of the sewer pipe.</p> <p>A condition of consent is recommended that ensures adequate drainage is installed for the walls and all retaining walls proposed adjacent to the boundary of the site to be of masonry construction.</p>	Yes
7.1-7.5 – Safety and security	<p>The front door and at least one window to buildings must face the street to enable natural surveillance.</p> <p>The street number of buildings must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.</p> <p>Child care centres must separate the car park and any outdoor play area with a safety fence and gates.</p>	<p>The front door and several windows on the ground and first floors of the child care centre face the street.</p> <p>A condition of consent is recommended in relation to the design and location of the street number.</p> <p>The outdoor play area is located away from car parking and driveways.</p> <p>The carparking is contained in the basement. No areas of conflict between this space</p>	Yes

	<p>Child care centres with more than 15 children must erect (at the expense of the applicant) an unscaleable 1.8 metre high lapped timber fence or the like along the side and rear boundaries of the allotment.</p> <p>Child care centres must provide:</p> <p>(a) safe access for children and people with disabilities; and</p> <p>(b) fire protection and evacuation requirements.</p>	<p>and the outdoor play areas are identified. The proposed acoustic treatment includes 1.8m high lapped and capped fencing as required by the submitted acoustic report. As a retaining wall is required, a condition of consent is recommended to contain this structure wholly within the development site.</p> <p>The child care centre has been suitably designed with respect to accessibility, fire protection and evacuation requirements.</p>	
8.1 – Food premises	<p>The design, construction, and operation of kitchens and food premises must comply with:</p> <p>(a) Food Act 2003;</p> <p>(b) Food Regulation 2010;</p> <p>(c) FSANZ Food Standards Code; and</p> <p>(d) AS 4674:2004 Design, Construction, and Fitout of Food Premises.</p>	<p>The proposed development was reviewed by Council's Environmental Health Officer with respect to the design, construction and operation of the kitchen and a condition of consent is recommended to be imposed, requiring compliance with the applicable and current legislation.</p>	Yes
8.2 – Site facilities	<p>Child care centres must ensure the following facilities are not visible to the street or any nearby public open spaces:</p> <p>(a) waste storage areas;</p> <p>(b) storage of goods and materials; and</p> <p>(c) any clothes drying areas.</p>	<p>The waste storage area is provided on the ground floor of the development.</p> <p>No storage of goods or materials is proposed to be visible from the street.</p> <p>No clothes drying areas are proposed to be visible from the street.</p>	Yes

#### Part B11 – Tree Preservation Order

The objectives of Part B11 of BDCP 2015 are to sustainably manage tree resources to improve visual, physical, and environmental amenity, promote the use of professional standards and best practices in tree management, and to list controls for the pruning, removal, and replacement of trees.

As addressed above in the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 assessment, the proposed tree removal and replacement is considered worthy of support.

**Planning agreements [section 4.15(1)(a)(iii)]**

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

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

The development is consistent with the applicable provisions contained in the *Environmental Planning and Assessment Regulation 2000*.

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

The proposed development is not likely to result in any significant adverse environmental, social, or economic impacts on the locality. As detailed in this report, the proposed development addresses all applicable development standards and controls. 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 subject site is considered suitable for the proposed development subject to the attached conditions. The proposed development responds to the applicable development standards and controls contained in State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, the Child Care Planning Guideline, BLEP 2015 and BDCP 2015. The proposed development results in a built form for the site, which is not inconsistent with the existing and desired future character of the area, and the assessment of the application has not identified any unreasonable or adverse impacts on the surrounding residential properties or the broader locality.

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

The application was advertised for a period of twenty-one (21) days between 17 February 2021 and 10 March 2021 as required by the Canterbury Bankstown Community Participation Plan. Twenty-six (26) submissions in objection to the development were received. These are addressed below:

*Submission:* Traffic

*Response:* The applicant has provided a Traffic and Parking Assessment Report for the development. This report was reviewed by Council's Traffic Management Team who were satisfied with the methodology of the report, and the recommendations. It is considered that the impact on traffic is consistent with the requirements of the Bankstown Development Control Plan 2015.

*Submission: Flooding*

Response: The rear half of the subject site is identified as being affected by medium risk flooding in accordance with Council's maps. Council's DCP identifies the Medium Flood Risk Precinct as land below the 100-year floor that is not subject to a high hydraulic hazard and where there are no significant evacuation difficulties. It is considered that a risk of flood damage remains in this Precinct but the implementation of Council's DCP seeks to minimise any damages.

The applicant has appropriately responded to the flood prone nature of the site through the provision of appropriate floor levels to the satisfaction of Council's Development Engineer. The frontage to Chester Hill Road is not impacted by flooding in accordance with Council's maps thus a clear evacuation path can be provided.

*Submission: Allotment Frontage and Council's DCP Control*

Response: Section 25 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that Council cannot limit the site area or site dimensions of a development site on which a childcare centre is proposed to be constructed upon. This Policy overrides Council's Development Control Plan.

*Submission: Proximity to other Childcare Centres*

Response: Section 26(1)(c) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that Council cannot consider the proximity of proposed facilities to other early childhood education or care facilities.

*Submission: Demand for Childcare Centre*

Response: Section 26(1)(b) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that Council cannot request for the need or demand of the development to be demonstrated.

*Submission: Size of Centre*

Response: The size of the childcare centre has been reduced to address concerns raised by Council relating to parking, bulk, and scale. As a result, the size of the proposed development is now considered to be worthy of support, as compliance has been demonstrated with all controls.

*Submission: Number of Children*

Response: The applicant has reduced the capacity of the centre by 20 children from 108 to 88.



*Submission: Bulk and scale*

**Response:** In order to establish an appropriate bulk and scale of development, Council relies on the maximum floor space ratio control within the Bankstown Local Environmental Plan 2015. The development has demonstrated compliance. Further, it is worth noting that non-residential development in the R2 Low Density Residential zone is limited to an FSR of 0.4:1 as opposed to 0.5:1. As a result, the bulk and scale of the proposed development, is less than that of a residential development that utilises all available FSR.

*Submission: Solar access*

**Response:** The proposed development complies with the solar access controls contained within the Bankstown Development Control Plan 2015. A detailed assessment confirms that the proposal will not impact the solar amenity of the dwelling at 128 Chester Hill Road in the morning and late afternoon. This ensures a minimum three (3) hours of direct sun light to the kitchen, front lounge and upper rumpus.

*Submission: Visual privacy*

**Response:** The amended development proposal does not contain an upper floor balcony and has provided for obscure glazing to all upper storey windows to a height of 1.8m from the upper storey Finished Floor Level (FFL). It is not considered to that proposal before the Panel will have adverse visual privacy impacts.

*Submission: Compatibility with character*

**Response:** The design and architectural treatment of the proposed development is considered to be appropriate, as it responds to and integrates with the existing streetscape. This is achieved by making use of a hipped roof which is the predominate roof type in the visual catchment of the proposed development. Further, it is worth noting that non-residential development in the R2 Low Density Residential zone is limited to an FSR of 0.4:1 as opposed to 0.5:1. The materials and finishes create visual interest, articulation and depth while ensuring that the development is representative of a dwelling house.

*Submission: Stormwater*

**Response:** Concern was originally raised with the applicant with respect to the proposed method of stormwater disposal. In response, the applicant sought Council's approval to provide for an alternative arrangement whereby stormwater is collected and disposed of via an easement over a downstream property. Council's hydraulic engineers have raised no objection to this arrangement. It is recommended that the application be approved on a deferred commencement basis with the consent only becoming operational upon evidence that this easement being obtained.

*Submission: Acoustic impacts*

Response: The acoustic impacts of the proposed development were assessed in an Acoustic Report prepared by NG Child and Associates. A supplementary report was submitted during the assessment of the application and reviewed by Council's Environmental Health Officers, who determined that the methodology and the recommendations of both reports were worthy of support. Council does not undertake their own acoustic reports but does a critical review of the consultant reports received.

*Submission: Basement Design*

Response: The proposed basement has been amended to comply with the childcare centre setback requirements of the Bankstown Development Control Plan 2015. The basement accommodates all the required on-site car parking in a suitability efficient and effective manner. The basement design allows for all motorist to enter and exit the site in a forward direction.

*Submission: Basement Excavation*

Response: A condition of consent is recommended requiring the applicant obtain dilapidation reports which will provide for a record of the condition of the existing adjoining structures prior to works commencing on site.

*Submission: Car parking*

Response: The proposed development is required to provide 1 car space per 4 children in accordance with the Bankstown Development Control Plan 2015. This has been provided within the basement car park and as such, the development provides the required car parking.

*Submission: Operating hours*

Response: The proposed operating hours are consistent with the provisions of the Child Care Planning Guideline and the Bankstown Development Control Plan 2015 being 7:00am to 6:00pm Monday to Friday.

*Submission: Permissibility*

Response: Centre-based child care facilities are permitted with consent in the R2 Low Density Residential zone under the Bankstown Local Environmental Plan 2015.

*Submission: Environmental impact*

Response: Council's assessment of the proposal and the fact that the development demonstrates compliance with all relevant controls and policies has informed the assessment of the environmental impacts and determined that any impact is worthy of support.

*Submission: Overdevelopment*

Response: Council does not consider the proposal to represent overdevelopment as compliance with all relevant controls and policies has been achieved.

*Submission: Extent of notification*

Response: The extent of the notification of the application was consistent with the requirements of the Canterbury Bankstown Community Participation Plan.

*Submission: Sewer System*

Response: The capacity and proposed use of the sewer system is a matter to be addressed by Sydney Water. A condition of consent is recommended requiring the developer to obtain the appropriate approvals from Sydney Water prior to any construction works. The applicant has provided documentation to demonstrate sufficient clearance is achieved to the existing sewer pipe.

*Submission: Historical landfill (asbestos)*

Response: As part of Council's assessment, the previous use of the site and any potential for contamination has been reviewed. It is noted that there is the presence of asbestos on the site. The applicant has provided several contamination reports which identify this material, including the extent of its exposure and a remediation plan which seeks the removal of the material and its disposal at a licensed facility.

*Submission: Management Plan*

Response: A condition of consent is recommended to be imposed requiring the applicant prepare a detailed plan of management as recommended by the submitted acoustic report. Council is unable to seek further operational plans beyond this as per the State Government's Policy - Section 26(1)(a) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

*Submission: Trees on site*

Response: The proposed development seeks to remove five (5) trees and retain the remaining eight (8) trees on site. The applicant has provided an arboriculture report prepared by a qualified arborist. This report has been reviewed by Council's tree management officer and the recommendations of this report are supported. A condition is recommended detailing the protection measures required for the trees required to be retained.

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

It is not considered the proposal contravenes the interest of the public or any parties or bodies representing the public.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. The assessment above has found that the proposed development is worthy of support, subject to the conditions attached to this report.

**RECOMMENDATION**

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



## **DEFERRED COMMENCEMENT REQUIREMENTS (Schedule A)**

**The following deferred commencement conditions must be complied with to the satisfaction of Council within twelve (12) months of the date of this deferred commencement consent, prior to the issue of an operational development consent:**

1. The applicant/owner is to secure a drainage easement through a downstream property to benefit the existing property (Lot 38B DP 400889 also known as No. 126 Chester Hill Road, Bass Hill).

The developer must register the easement with New South Wales Land Registry Services prior to the issue of the Operational Consent.

The easement is to be registered on the plan of subdivision under provisions of the *Conveyancing Act* 1919 No 6. A statement shall be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority empowered to release, vary or modify the easements created.

All documentation to demonstrate the above matters is to be submitted to Council for assessment.

2. A stormwater drainage plan for the site shall be prepared by a qualified Professional Civil Engineer and is to be designed so as to comply with Council's Development Engineering Standards.

The plan is to incorporate the easement as required by item 1 of Schedule A of this Deferred Commencement and is to show adequate stormwater drainage into the easement from both the existing dwelling on site and for the to-be-created lot. The plan must note any required installation/upgrading of the drainage infrastructure, which is to be at the expense of the owner/developer.

The plan and any required documentation is to be submitted to Council for assessment, and are to be deemed of suitable quality and design by Council prior to the issue of an operational consent.

## **FORESHADOWED CONDITIONS OF APPROVAL (Schedule B)**

**The following conditions of consent including any other conditions that may arise from resolution of matters listed in Schedule A, 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 conditions are imposed taking into account the matters for consideration in determining a Development Application pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 and other relevant Acts and Regulations.

**Notes:**

1. This Determination Notice does not constitute permission to begin works associated with the development. A Construction Certificate (where applicable) must be obtained prior to the commencement of any development works.
2. This Determination Notice operates or becomes effective from the endorsed date of Consent.
3. If you are dissatisfied with this decision, you may apply for a review of determination pursuant to Section 8.2 of the *Environmental Planning and Assessment Act 1979* or appeal to the Land and Environment Court pursuant to Sections 8.7 and 8.10 of the *Environmental Planning and Assessment Act 1979*. Any application for a review pursuant to Section 8.2 must be received, assessed and determined by Council within 6 months after the date of receipt of this Determination Notice. It is therefore advisable to lodge the application for review as soon as possible to ensure that assessment is complete within the statutory timeframes. You should seek advice from your legal advisor on the time limits for the lodgement of any appeal.
4. Sections 9.37 and 9.50 of the Environmental Planning and Assessment Act, 1979 confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under that Act.
5. This consent will lapse 5 years from the endorsed date of consent unless the use has commenced, or any building works have physically commenced.
6. The applicant or any other person entitled to act on this Consent may apply to modify the Development Consent in accordance with Section 4.55 of the Environmental Planning and Assessment Act, 1979.
7. Failure to comply with a condition contained within this Development Consent may result in a fine or prosecution by Council.

**1. CONDITIONS OF CONSENT**

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

Drawing No.	Plan Name	Date	Issue	Prepared By
DA01	Site, Analysis + Demolition Plan	19-04-2022	C2	Archizen Architects
DA02	Basement Floor Plan - east			
DA03	Basement floor Plan - west			
DA04	Ground floor plan			
DA05	Upper floor plan			
DA06	Elevation : North			
DA07	Elevation : East			



DA08	Elevation : South			
DA09	Elevation :			
DA10	Section: A-A & Vehicular ramp			

Document No.	Document Name	Date	Revision	Prepared By
-	Arboricultural Impact Assessment	20 October 2020	-	Susan Stratton
-	Acoustic Assessment Report	24 December 2020	3	NG Child & Associates
-	Confirmation of Findings & Recommendations of the Original Acoustic Report	2 May 2022	-	NG Child & Associates
20422	Traffic and Parking Assessment Report	24 November 2020		Varga Traffic Planning Pty Ltd
	Traffic and Parking Matters	29 April 2022		Varga Traffic Planning Pty Ltd
11480-ER-1-1	Preliminary Site Investigation with Limited Sampling	25 September 2020	0	Alliance Geotechnical
11480-ER-1-2	Supplementary Contamination Assessment Report	29 October 2021	0	Alliance Geotechnical
11480-ER-1-3	Remedial Action Plan	19 November 2021	0	Alliance Geotechnical
	Operational Waste Management Plan	1 November 2021	B	Elephants Foot

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

- 1.1. Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.
  - a. The north western wall of the basement is to be extended 900mm west.
  - b. The parallel basement car parking spaces (northern wall) that are directly adjacent to the proposed columns are required to be 6.1m in length.
  - c. The street number of buildings must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.
- 1.2. A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with relevant legislation.

- 1.3. All costs associated with the acoustic fencing required by this application is to borne by the beneficiary of this consent. This includes all installation, operation, and maintenance costs.
- 1.4. The remedial action plan prepared by Alliance Geotechnical Pty Ltd, titled 'Remedial action plan, 126 Chester Hill Road, Bass Hill NSW 2197', reference number 11480-ER-1-3, dated 19 November 2021 and all the recommendations stated within the report forms part of the development consent. Council must be notified of and endorse any variations to the remedial action plan, prior to the variations being implemented.

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

- 2.1. Development Contributions of \$27,940.00 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Bankstown Development Contributions Plan 2019—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.

- 2.2. A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a construction certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.

The landscape plan shall incorporate the following:

- a) 1 x replacement tree/s known to attain a minimum height of 10 metres at maturity in the front setback.
  - b) 1 x replacement tree/s known to attain a minimum height of 15 metres at maturity in the rear yard;
    - Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 2.4 of Bankstown Development Control Plan 2015 Part B11 – Tree Management Order.
    - Tree species used shall be locally occurring indigenous tree species – refer to Section 14 and Appendix C – Locally Occurring Indigenous Tree Species, in the Bankstown City Council Tree Management Manual;
    - The tree/s shall have a container size not less than 100 litres and shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use
    - The tree/s shall be planted no closer than 3.5metres from the wall of any approved building on the property.
    - The tree/s shall be planted so that future growth is not in conflict with overhead electricity wires or boundary fences.
    - The tree/s shall be maintained for the life of the development.
- 2.3. 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.

#### **Trees to be Retained and Protected: On-site**

The following tree/s shall be retained and protected from removal and damage for the duration of the development:

Tree Species	Location	Protection Zones*
1 x Eucalyptus moluccana (Grey box)	In the rear yard towards the left-hand side	TPZ 3.5m SRZ 2.2m
1 x Eucalyptus moluccana (Grey box)	In the rear yard towards the left-hand side	TPZ 5.8m SRZ 2.7m
1 x Eucalyptus fibrosa (Grey Ironbark)	In the rear yard towards the left-hand side	TPZ 3.6m SRZ 2.2m
1 x melaleuca styphelioides (Prickly paperbark)	Rear left-hand corner of the rear yard	TPZ 3.6m SRZ 2.2m

1 x Washingtonia robusta (Mexican fan palm)	Rear left-hand corner of the rear yard	TPZ 6.0m SRZ 2.8m
1 x Eucalyptus sideroxylon (Red Ironbark)	Rear left-hand corner of the rear yard	TPZ 2.5m SRZ 2.0m
1 x Melaleuca linariifolia (Narrow leaf paperbark)	Near rear boundary towards right- hand side	TPZ 3.7m SRZ 2.2m
1 x Eucalyptus saligna (Sydney blue gum)	Near rear boundary towards right- hand side	TPZ 4.1m SRZ 2.3m

\* TPZ and SRZ in metres measured from the centre of the trunk of the tree.

Tree protection measures shall comply with Australian Standard AS4970-2009 Protection of trees on development sites, together with the following conditions:

- The tree/s to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
- All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.
- A designated Tree Protection Zone shall be created on site by erecting a tree protection fence at 3.0 metre radius from the trunk of the (2) Eucalyptus moluccana (Grey box), Eucalyptus fibrosa (Grey Ironbark), Melaleuca styphelioides (Prickly paperbark), Washingtonia robusta (Mexican fan palm), Eucalyptus sideroxylon (Red Ironbark), Melaleuca linariifolia (Narrow leaf paperbark) & Eucalyptus saligna (Sydney blue gum). The fence is to be constructed of chain wire mesh 1.80 metres high supported by steel posts. The fence is to be installed prior to demolition / construction, shall not be removed or altered, and is to remain in place for the duration of the site works;
- The applicant will display in a prominent location on the tree protection fence a durable, weather resistant sign of a similar design, layout and type size as per Appendix C, Australian Standard AS4970-2009 Protection of trees on development sites clearly showing:
  - The Development Consent number;
  - The name and contact phone number of the consultant arborist / site manager (nominate whoever is applicable);
  - The purpose of the protection zone;
  - The penalties for disregarding the protection zone;
 (Note to user: delete any of a – d as appropriate)
- No vehicular access, excavations for construction or installation of services shall be carried out within the fenced Tree Protection Zone.
- All utility services, pipes, stormwater lines and pits shall be located outside the fenced Tree Protection Zone.
- Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced Tree Protection Zone.

- Trees marked for retention must not to be damaged or used to display signage, or as fence or cable supports for any reason.
- If tree roots are exposed during approved works, roots with a diameter less than 25mm are to be pruned cleanly using sharp hand tools and not torn or ripped by machinery. Tree roots greater than 25mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken. If necessary, changes in design or relocation of works may be required.

OR

- Root mapping is to be undertaken on (subject tree/s) within (specify location to be mapped). All work shall incorporate the recommendations following the root mapping.
- No ripping or rotary hoeing within the Tree Protection Zone of trees to be retained is permitted.
- Any approved excavation within the Tree Protection Zone of protected trees must be carried out by hand under the care and control of a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent - to avoid unnecessary damage to tree roots.
- In exceptional circumstances, the tree protection fencing may be temporarily relocated to allow site access for construction purposes subject to the prior approval of the project arborist, the installation of ground protection measures as detailed below, and following the clearly identified tagging of all protected trees, provided such fencing is immediately replaced on completion of the works. No damage to root systems or soil compaction will be accepted during such works.

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

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

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

- 2.5. 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](http://www.sydneywater.com.au/tapin) for Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPINTM.

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

- 2.6. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.7. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](http://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 2.8. All parts of the premises used for the storage, preparation and handling of food must be designed, constructed and operated in accordance with the requirements of:
- a) The *Food Act 2003* and *Food Regulation 2015*;
  - b) Australia New Zealand Food Standards Code;
  - c) AS 4674-2004, 'Design, construction and fit-out of food premises';
  - d) AS 1668.2 – 'The Use of Ventilation and Air-Conditioning in Buildings – Mechanical Ventilation in Buildings'
- 2.9. 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.
- 2.10. The landscape plan shall include the provision for the replacement of all boundary fencing. A new fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material, and shall be designed in accordance with the recommendations contained in the Acoustic Report, endorsed by this consent. In the event that an adjoining property owner does not consent to the replacement of the existing dividing fence, the fence may be placed on the inside face of the existing fence line,

within the subject property. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.

2.11. The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:

- a) A heavy Duty VFC of maximum width of 5.5 metres at the property boundary for the basement access ramp.
- b) Drainage connection through an on site detention system discharging under gravity, through a newly created inter allotment drainage easement to an existing drainage pit in Orchard Road.
- 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.

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

2.12. Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;



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

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

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

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

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

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

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

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

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

- 2.14. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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

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

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

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

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website [www.cbcity.nsw.gov.au](http://www.cbcity.nsw.gov.au)

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

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

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

- 2.15. A Trade Waste Agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system (where required). 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.
- 2.16. 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 Principal Certifier prior to the issue of the construction certificate.
  - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.17. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

- 2.18. An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifier for approval prior to the issue of a construction certificate.
- 2.19. Stormwater drainage from the development shall be designed to comply with Council's Bankstown Development Engineering Standards. 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 approved at the time of issues of operational consent. 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 and the relevant Australian Standards.
- 2.20. For this development, Council requires that the stormwater runoff from within the development site shall be collected and controlled by means of an on-site stormwater detention system, in accordance with Council's Bankstown Development Engineering Standards. The developer shall engage a suitably qualified engineer to prepare a final stormwater drainage and on-site detention system plan to be generally in accordance with the endorsed plan at the time of issue of operational consent, and in accordance with the requirements contained in Council's Bankstown Development Engineering Standards. The Engineer shall certify that the design and plans comply with Council's Bankstown Development Engineering Standards and the relevant Australian Standards.
- 2.21. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance, aisle widths, aisle lengths, and parking bay dimensions shall be in accordance with the Australian Standard AS 2890 parking series.
- 2.22. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the Principal Certifying Authority (PCA) for approval prior to issue of any Construction Certificate.
- 2.23. The pump out drainage system for the access ramp and basement car parking area shall be provided in accordance with Council's Development Engineering Standards. Engineering details and specifications shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of any Construction Certificate.

- 2.24. A clear sign shall be provided at entry of the carpark basement level to direct visitors to the pick up and drop off parking spaces. Pick up and drop off parking spaces shall be clearly denoted and marked.
- 2.25. For internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate. The maximum grade of the driveway/ramp shall not exceed **25%** and shall comply with AS 2890.1. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.
- 2.26. A dilapidation survey must be undertaken by a professional engineer for all of the adjoining properties and is to detail the physical condition of all structures (including driveways, retaining walls, and other outdoor structures such as carports, pergolas, awnings, pools, fencing etc), both internally and externally, including such elements as walls, ceilings, roofs, structural members and other similar elements. The dilapidation survey must consider structural as well as hydrological and geotechnical factors likely to arise from the development. It must be submitted to the Principal Certifier and all costs associated with preparing the survey must be borne by the person having the benefit of this Determination Notice. This survey must be provided in hard copy to the relevant adjoining property owners prior to the issue of a Construction Certificate.
- 2.27. Prior to the issue of a Construction Certificate, the developer is to apply to the Canterbury Bankstown Traffic Committee, and to the satisfaction of Council's Traffic Engineer, to install a P10 timed parking across the frontage of the property in Chester Hill Road (with appropriate operation hours of the centre) to facilitate the picking-up/dropping-off of children to the centre at the Applicant's cost. The Applicant also needs to contact Council three months prior to the operation of the centre for the installation of signage providing sufficient time to report the matter to the Traffic Committee.
- 2.28. Prior to the issue of a Construction Certificate, the developer is to apply to the Canterbury Bankstown Traffic Committee, and to the satisfaction of Council's Traffic Engineer, to install 'No Stopping Waste Vehicles Excepted' signage at the Applicant's cost. The Applicant also needs to contact Council three months prior to the operation of the centre for the installation of signage providing sufficient time to report the matter to the Traffic Committee.

- 2.29. Prior to the issue of a Construction Certificate, the developer is to apply to the Canterbury Bankstown Traffic Committee, and to the satisfaction of Council's Traffic Engineer, for a Work Zone at the Applicant's cost. The Applicant also needs to contact Council three months prior to the operation of the centre for the installation of signage providing sufficient time to report the matter to the Traffic Committee.
- 2.30. 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 applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 2.31. 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.
- 2.32. Any retaining walls required for the subject development, shall be designed on accordance with clauses 6.7, 6.8 & 6.9 of the BDCP 2015 – Part B6 and be located wholly within the site.
- 2.33. A vacant land charge form is to accompany any Construction Certificate (CC) application for the removal of all domestic garbage and recycling bins.  
<https://www.cbcity.nsw.gov.au/council/forms/waste-recycling>

### **3. Conditions to be Satisfied Before Construction.**

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

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

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,



- b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
  - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
  - d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
    - ii. notified the principal certifier of the appointment, and
    - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
  - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.
- 3.3. 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).
- 3.4. 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.
- 3.5. Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.



- 3.6. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.7. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.
- 3.8. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

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

- 3.9. 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 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.

#### 4. Conditions to be Satisfied During Construction.

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

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

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

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

- 4.3. 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.
- 4.4. 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.
- 4.5. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
  - a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.

- b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- 4.6. 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 provided to Council prior to the issue of an Occupation Certificate.

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

- 4.7. 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.
- 4.8. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
  - a. Protect and support the building, structure or work from possible damage from the excavation, and
  - b. Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- 4.9. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the Principal Certifier. Should the person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.

- 4.10. 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.
- 4.11. 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.

- 4.12. 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.

- 4.13. All waste must be transported by a contractor licenced 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.

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.

## 5. Conditions to be Satisfied Before Occupation.

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. An Occupation Certificate for the completed development must not be issued until all conditions relating to demolition, building have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.3. Twenty-two (22) off street car spaces being provided in accordance with the submitted plans. This shall comprise of eleven (11) spaces for staff and eleven (11) spaces for visitors. One (1) of the above car parking spaces is 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, with no visitor spaces being stacked car parking spaces.
- 5.4. An Emergency Response Management Plan shall be prepared and submitted to Principal Certifiers satisfaction. The Plan shall include the following:
  - a. List of chemicals and maximum quantities to be stored at the site;
  - b. Identification of potentially hazardous situations;
  - c. Procedure for incident reporting;
  - d. Details of spill stations and signage;
  - e. Containment and clean-up facilities and procedures; and
  - f. The roles of all staff in the plan and details of staff training.
- 5.5. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate.
- 5.6. Prior to occupation, the basement car parking shall be line marked and sign posted in accordance with AS2890.:2004. The one-way carparking circulation shall have directional arrows line marked.
- 5.7. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier prior to the issue of an occupation certificate.
- 5.8. Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated, and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.

- 5.9. Lighting must be provided to the entry of the child care centre, driveway and parking area to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 5.10. The premises must be readily identified from the street with the allocated house number. The street numbers must be made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building. Numbering of the development without Council's written approval is not permitted.
- 5.11. A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA Prior to the issue of the Occupation Certificate.
- 5.12. An identification report by a registered surveyor must be submitted to the principal certifying authority to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 5.13. Prior to the issue of any Occupation Certificate, the owner is to enter into a formal agreement with a licenced private waste contractor to service the commercial development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any Occupation Certificate.

- 5.14. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

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

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

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

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

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

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

- 5.16. Prior to the issue of an occupation certificate, the applicant must submit a validation report to Council. The validation report must be prepared or reviewed and approved by an appropriately qualified environmental consultant and prepared in accordance with the 'Consultants reporting of contaminated land' (NSW EPA, 2020) and the National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013). The validation report must verify that the land is suitable for the use of a child care centre, and that the remediation and validation of the site has been undertaken in accordance with the approved remediation action plan.
- 5.17. The acoustic report submitted in support of this application prepared by NG Child & Associates titled, *'Acoustic impact report, proposed child care centre, 126 Chester Hill Road, Bass Hill NSW'* dated 24 December 2020 and the written correspondence dated 2 May 2022, forms part of the development consent.

The principal certifying authority shall obtain a report from an appropriately qualified acoustic consultant, stating that the recommendations outlined in the above-mentioned acoustic report have been implemented and that the relevant noise criteria have been satisfied prior to the issue of any occupation certificate. A copy of the report is to be submitted to Council prior to the issue of any occupation certificate.

- 5.18. Prior to the issue of an occupation certificate, the applicant must submit a validation report to Council. The validation report must be prepared or reviewed and approved by an appropriately qualified environmental consultant and prepared in accordance with the 'Consultants reporting of contaminated land' (NSW EPA, 2020) and the National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013). The validation report must verify that the land is suitable for the use of a child care centre, and that the remediation and validation of the site has been undertaken in accordance with the approved remediation action plan.
- 5.19. Prior to the issue of an occupation certificate, a plan of management is to be submitted to Council. The plan of management forms part of the development consent however, in the event of any inconsistency, the conditions of this consent will prevail.
- 5.20. Prior to the issue of any occupation certificate, a food premises registration form must be completed and submitted to Council. This form is available online at [www.cbccity.nsw.gov.au](http://www.cbccity.nsw.gov.au). In the instance details on the original registration form change, Council is to be notified of the change within seven (7) days of the change occurring.

## **6. Conditions of Use.**

- 6.1. Twenty two (22) off street car spaces being provided in accordance with the submitted plans.
- 6.2. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 6.3. The hours of operation of the use shall be limited to between 7:00am to 6:00pm Monday to Friday and closed on public holidays.
- 6.4. Following occupation of the childcare centre, should it be found that the measures recommended in the acoustic assessment are not sufficient, have been incorrectly installed or a noise issue arises (through complaint or otherwise), the owner/occupier upon request by Council, must employ the services of a suitably qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment and complete an acoustic report with recommendations to rectify the situation. A copy of the acoustic 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 thirty (30) days from the date requested by Council.



- 6.5. The childcare centre is restricted to a maximum of eighty-eight (88) children at any one time.
- 6.6. Trading of the Child Care Centre must not commence until a final inspection has been carried out by Council's Environmental Health Officer and ALL conditions of consent have been complied with.
- 6.7. 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.
- 6.8. 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.
- 6.9. Identification number/s are to be conspicuously displayed at the front of the premises.
- 6.10. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 6.11. Appropriate security measures, including security doors and CCTV cameras, shall be installed at the main pedestrian and vehicular entrance and exits, and the ground floor area of the premises. All CCTV cameras shall have the capacity to store footage for a minimum of 21 days.
- 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 applicant must ensure that all activities within the premises comply with the relevant sections of the Protection of the Environment Operations Act 1997 and Regulations and the 'Noise Policy for Industry' (NSW EPA, 2017).
- 6.14. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).

- 6.15. 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.
- 6.16. The operator of the premises shall set up and operate a Neighbourhood Liaison Committee. The purpose of the Committee is for the operator and neighbours to resolve any issues, such as traffic and noise, arising from the operation of the child care centre. Evidence of the formation of this committee must be submitted to Council once operational. The operation of the Committee must ensure:
- (a) The membership of the Neighbourhood Liaison Committee must include residents who live next to and opposite the child care centre.
  - (b) The Neighbourhood Liaison Committee must meet at least four times during the first 24 months of the child care centre operating.
  - (c) The operator of the child care centre must forward the meeting minutes to Committee members.
  - (d) The operator of the child care centre may forward the meeting minutes to Council for information purposes
  - (e) The operator of the child care centre may terminate the Committee once it meets at least four times during the first 24 months of the child care centre operating or may choose to extend the function of the Committee over a longer period of time.
- 6.17. If a complaint is received the complaint should be recorded on a Complaint Form. The Complaint Form should contain the following:
- (a) Name, address and contact details of the Complainant;
  - (b) Time and date the complaint was received;
  - (c) The nature of the complaint or incident;
  - (d) The time and date the incident occurred;
  - (e) The name of the employee that received the complaint;
  - (f) Actions taken to investigate the complaint and the summary of the results of the investigation;
  - (g) Indication of what was occurring at the time the incident was observed;
  - (h) Required remedial action;
  - (i) Validation of the remedial action;
  - (j) Summary of feedback to the Complainant and name of employee who gave the feedback.

The register of complaints should be held on the premises for at least 24 months and shall be reviewed monthly by Management to ensure all complaints are being investigated and resolved in a timely manner. All complaints received shall be reported to Management with initial action/investigation commencing within 7 days.

The Complainant must be notified of the results and actions arising from the investigation. A copy of the register of complaints shall be provided to Council or Police immediately upon request.

<sup>1</sup>Incident includes:

- (a) Any breach of the Plan of Management (where applicable);
- (b) Any complaint by any person about the operation of the premises;
- (c) Any complaint by any person about noise emanating from the premises;
- or
- (d) Any event that may cause concern to any person as a result of the conduct and/or an act of any person(s) on the premises.

-END-

---

## Canterbury Bankstown Local Planning Panel - 06 June 2022

---

<b>ITEM 4</b>	<b>DA-538/2021 - 21 Marigold Street, Revesby</b>
	<b>Demolition of existing structures (being those on proposed Lot 21), retention of existing structures (being those on proposed Lot 22), and Torrens Title subdivision of one Lot into two which create Lots 21 and 22</b>
<b>FILE</b>	<b>DA-538/2021 – Bunya / Revesby</b>
<b>ZONING</b>	<b>IN1 General Industrial</b>
<b>DATE OF LODGEMENT</b>	<b>1 July 2021</b>
<b>APPLICANT</b>	<b>LBP Developments Pty Ltd</b>
<b>OWNERS</b>	<b>LBP Developments Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$200,000.00</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel ('the Panel') in accordance with Schedule 2 of the Ministerial Direction 'Local Planning Panel Directions – Development Applications' issued under section 9.1 of the *Environmental Planning and Assessment Act, 1979* as the subject application proposes a departure from a development standard in excess of delegations provided to Council Officers.

Development Application No. DA-538/2021 proposes the demolition of two existing structures on site with retention of one (1) structure, followed by Torrens title subdivision from one lot into two lots with one of the allotments in a battle-axe configuration.

The application been assessed against, amongst other things, State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55), State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, Bankstown Local Environmental Plan 2015 (BLEP 2015), Draft Canterbury Bankstown Local Environmental Plan 2020 and Bankstown Development Control Plan 2015 (BDCP 2015) and fails to comply with the minimum lot width for industrial lands set by BLEP 2015.

As indicated in the assessment report, there exists sufficient merit to allow for a departure to the development standard relating to the minimum required allotment width.

In accordance with the Canterbury Bankstown Community Participation Plan, the application was not required to be publicly notified or exhibited.

## **POLICY IMPACT**

---

There are no direct policy impacts as a result of the subject Development Application

## **FINANCIAL IMPACT**

---

There are no direct financial impacts as a result of the subject Development Application

## **RECOMMENDATION**

---

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

## **ATTACHMENTS**

---

- A. Assessment Report
- B. Conditions of Consent

**ATTACHMENT A: SECTION 4.15 ASSESSMENT REPORT****SITE & LOCALITY DESCRIPTION**

The subject site is legally known as Lot 2 in DP 1073123 and is commonly known as No. 21 Marigold Street, Revesby. The site is an irregular, triangular shaped allotment with an area of 10,416m<sup>2</sup> and a frontage to Marigold Street of 73.17 metres. The site is zoned IN1 General Industrial under BLEP 2015.

The site is burdened by a 7.62-metre-wide 'Easement for Drainage' and a 6.095-metre-wide 'Drainage Easement'. Each of these easements are situated towards the rear of the site (in the immediate vicinity of the existing stormwater channel). The site contains three industrial buildings and two ancillary structures, various car parking areas and limited on-site landscaping as shown below, outlined in green:



Figure 1: Site Outline - Source: Mecone Mosaic

The small industrial lot to the immediate north (Lot 1 in DP 1073123) is known as No 13 Marigold Street and currently accommodates at grade car parking. This site is in the same ownership as No 34 Marigold Street, being the industrial manufacturing premises on the opposite side of Marigold Street. A 'Restriction on Use', under s88E of the Conveyancing Act 1919, has the effect of limiting its use to car parking so long as the current manufacturing use on No 34 Marigold Street continues.

To the northeast of the site are No. 21A Marigold Street and No. 28A Fitzpatrick Street which contain drainage and water channel infrastructure. Each of these properties are owned by Council. To the east, the site shares a short boundary with No. 168 Milperra Road, being a large industrial site fronting both Milperra Road and Fitzpatrick Street. To the south of the site is No. 23-25 Marigold Street, which is also a large industrial site. To the west of the site is Marigold Street while across the road, further to the west, are more industrial allotments.

The site sits within the large Revesby industrial area, approximately 350 metres south of Marigold Road's intersection with Milperra Road and around 780 metres north of the M5 Motorway. No residential properties are located within the vicinity, as all surrounding land uses are industrial, as is shown on the zoning map below:

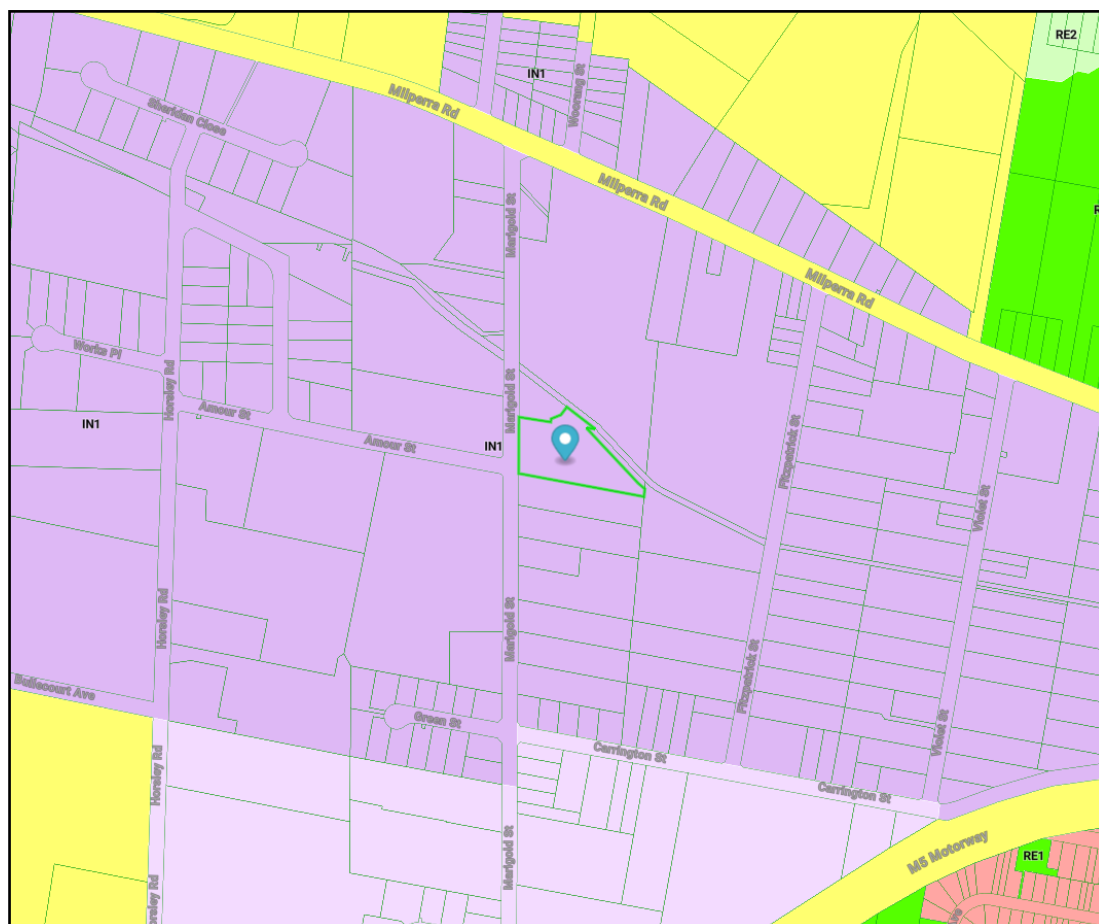


Figure 2: Zoning Map - Source: Mecone Mosaic



### PROPOSED DEVELOPMENT

The subject application proposes the removal of two industrial buildings and the retention of one industrial building and its two associated ancillary structures. After demolition, the site is proposed to be subdivided in a battle-axe configuration, with an access handle to the rear lot provided alongside the southern property boundary. The structures to be demolished are shown below, highlighted in red, being located on what is proposed to be the front property. The building at the rear, proposed to be retained, will be situated on the battle-axe allotment. The connection between the two central buildings is also proposed to be removed.



Figure 3: Proposed Demolition

The resultant subdivision would provide for two industrial properties, with the front site containing an area of 5,917m<sup>2</sup> with a street frontage of 64.165 metres while the rear site would have an area of 4,499m<sup>2</sup> (3,838.5m<sup>2</sup> exclusive of access handle) with a street frontage of 9 metres and an effective frontage at the end of the access handle of 74.5 metres. The subdivision pattern proposed is shown below:



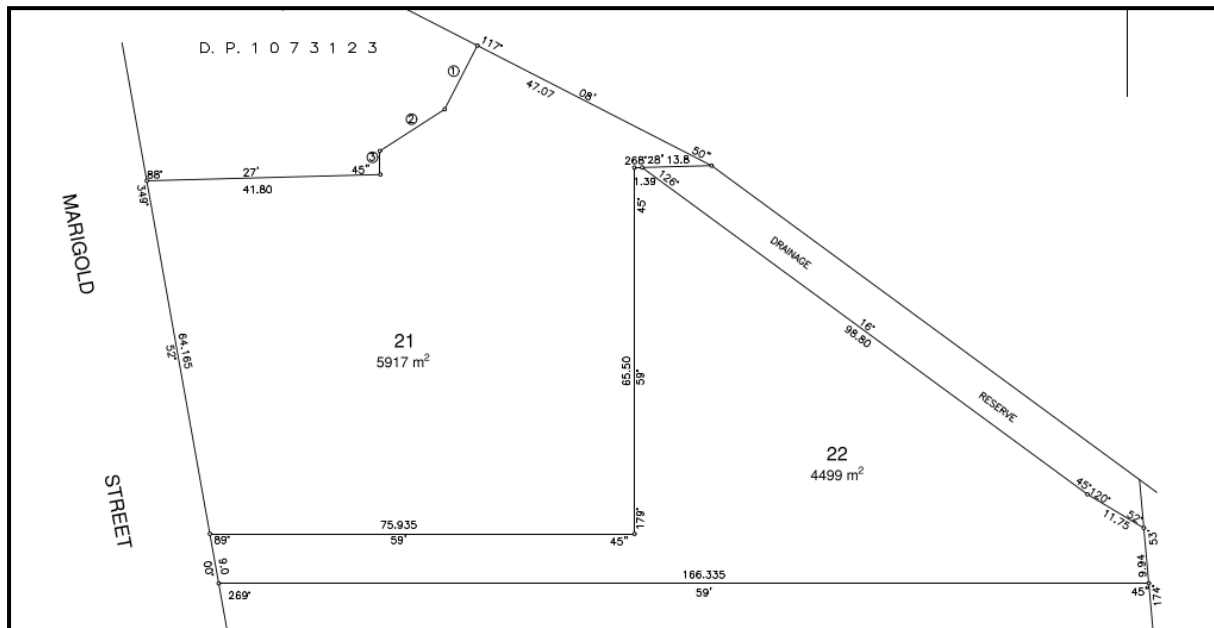


Figure 4: Proposed Subdivision Plan

### Statutory Considerations

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

- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment
- Bankstown Local Environmental Plan 2015
- Draft Canterbury Bankstown Local Environmental Plan 2020
- Bankstown Development Control Plan 2015

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

### 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 No 55 – Remediation of Land (SEPP 55)**

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

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

The site is subject to an environmental management plan (EMP) due to the presence of contaminants on site. The application was referred to the NSW Environmental Protection Authority who have noted that the proposed works and subdivision does not constitute a Scheduled Activity under the *Protection of the Environment Operations Act 1977* and accordingly, the EPA does not consider that the proposal will require an Environmental Protection License.

The application was submitted with a review of the existing EMP which details how the plan would continue to be implemented in the event of the proposed development being consented to. Council's Environmental Health Officer has reviewed the documentation and has provided conditions of consent which satisfy that the site (as exists in its contaminated state) is suitable for the subject development.

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

The aims of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 are to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The subject application does not seek removal of any vegetation on site. It is considered that the proposal satisfies the provisions of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

**Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment**

The subject site is located within the Georges River Catchment and accordingly Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (GMREP 2) applies. The proposed works are consistent with the relevant planning principles outlined in the GMREP 2, and the proposal does not include any of the specific development types listed under the 'planning control table'.

Bankstown Local Environmental Plan 2015

The table below provides for an assessment of the development against the principal development standards contained in the Bankstown Local Environmental Plan 2015;

Bankstown Local Environmental Plan 2015			
Clause	Requirement	Comment	Complies (Y/N)
<a href="#">Cl. 1.2</a> Aims of Plan	This Plan aims to make local environmental planning provisions for land in Bankstown in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.	The proposal is consistent with the Aims of the Plan, with regard to promoting employment opportunities	Y
<a href="#">Cl. 4.1</a> Minimum subdivision lot size - <a href="#">Lot Size Map</a>	(a) to ensure that lot sizes are sufficient to accommodate development that is consistent with the objectives and planning provisions of dual occupancies (b) to minimize any likely adverse impact of the development on the amenity of the area	Zone U2 on the Lot Size Map requires a minimum lot size of 1,500m <sup>2</sup> .  The proposed lots are 5,917m <sup>2</sup> and 4,499m <sup>2</sup> in area, thereby satisfying this requirement.	Y
<a href="#">Cl. 4.1C</a> Minimum lot sizes for certain land	Despite clause 4.1(3), development consent must not be granted to the subdivision of land in Zone IN2 Light Industrial unless the width of each lot to be created is at least 20 metres wide at the front building line.	Proposed lot 22 is 9 metres in width at the front building line, a 62.5% departure from the development standard.	N Discussed Below
<a href="#">Cl. 4.4</a> Floor space ratio - <a href="#">Floor Space Ratio Map</a>	To establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site	Maximum FSR of 1:1 permitted as per Floor Space Ratio Map.  All structures on proposed lot 21 are proposed to be demolished, resulting in no GFA.  Lot 22 will retain 1,541.8m <sup>2</sup> of GFA for an FSR of 0.34:1.	Y

Bankstown Local Environmental Plan 2015			
Clause	Requirement	Comment	Complies (Y/N)
<a href="#">Cl. 4.6</a> Exceptions to development standards	To provide an appropriate degree of flexibility in applying certain development standards to particular development	A Clause 4.6 Variation Request was submitted with this application, attached to this report which adequately satisfies the requirements of this clause.	Y

The proposal satisfies the above clauses of the BLEP 2015, with the exception of the following:

Clause 4.1C(1) – Minimum lot sizes for certain land

Clause 4.1C(1) reads as follows:

*Despite clause 4.1(3), development consent must not be granted to the subdivision of land in Zone IN1 General Industrial unless the width of each lot to be created is at least 24 metres wide at the front building line.*

Clause 4.1C makes reference to BLEP 2015 Clause 4.1(3), which reads as follows:

*The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

While the proposed development seeks to vary Clause 4.1C(1), it provides compliance with Clause 4.1(3) with both lots being in excess of the minimum required site area of 1,500m<sup>2</sup>, as shown on the Lot Size Map.

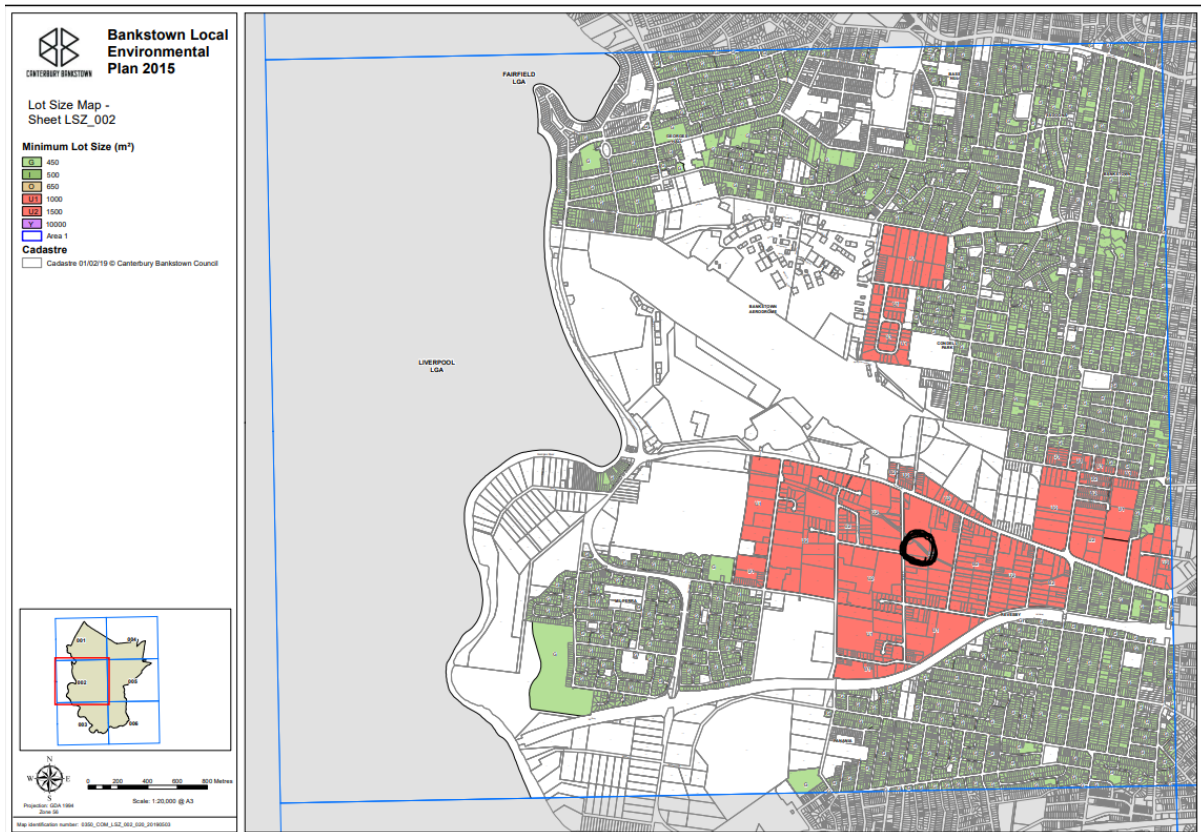


Figure 5: Lot Size Map

The proposed front allotment would have a lot width at the front building line of 64.165 metres, remaining generally consistent through the depth of the allotment, while the battle-axe lot to the rear would be provided with a lot width of 9.0 metres at the front building line, a shortfall of 15 metres of the required 24 metres under Clause 4.1C(1). The proposed non-compliance represents a 62.5% variation to the development standard. Despite this non-compliance through the length of the access handle, at the 'effective' front boundary of the site, the lot width proposed is 74.5 metres. Further, a lot width of 24 metres is achieved for 70.2 metres in depth before the site continues to taper towards a point.

Despite the extent of the variation, the proposed lot configuration is consistent with the relevant objective of BLEP 2015 Clause 4.1 with regard to the subdivision of land, which reads as follows:

- (a) *to ensure lots are of sufficient size to accommodate certain development that is consistent with relevant planning provisions without adversely impacting on residential amenity,*

As the site is situated within the heart of the Revesby industrial estate, the proposed subdivision will not have an adverse impact '... on residential amenity' as no new structures or uses of the site are proposed through this application, and the closest residential land use is approximately 600 metres away to the southeast.

In accordance with BLEP 2015, Clause 4.6, the consent authority is permitted to provide a degree of flexibility in the application of certain development standards, provided the requirements of Clause 4.6(3) are satisfied by the applicant. In this instance, the application was submitted with a Clause 4.6 variation request which demonstrates that compliance with the standard in question is unnecessary. The intent of the minimum lot width standard is to provide for a site which is able to accommodate a range of industrial land uses and is in keeping with the desired character of the industrial area. With respect to access and manoeuvring of heavy vehicles, the applicant has provided swept paths and indicative building outlines to show that the proposed subdivision pattern will result in a site outcome whereby both sites as they exist today, and where they could be developed in the future, will be able to be serviced by HRVs (entering and exiting in a forward direction). The rear (battle-axe) allotment is shown below, with a HRV accessing the existing structure on site through a rear loading bay.

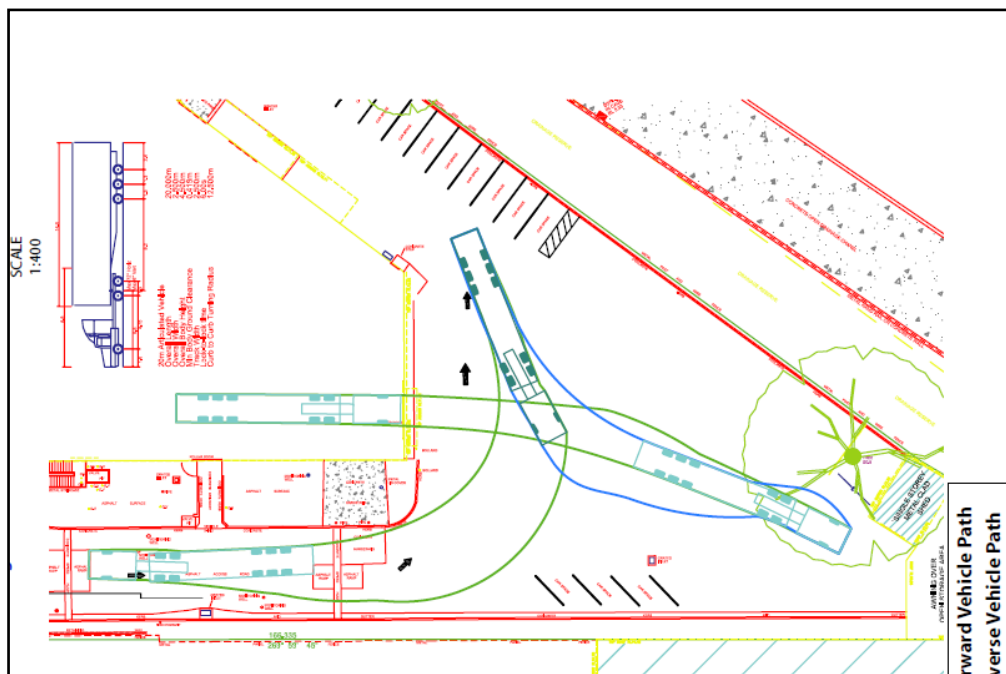


Figure 6: Existing forward-in / forward-out configuration utilising the proposed access handle

Below is an indicative building footprint for two industrial units, both of which are able to be serviced by HRVs.



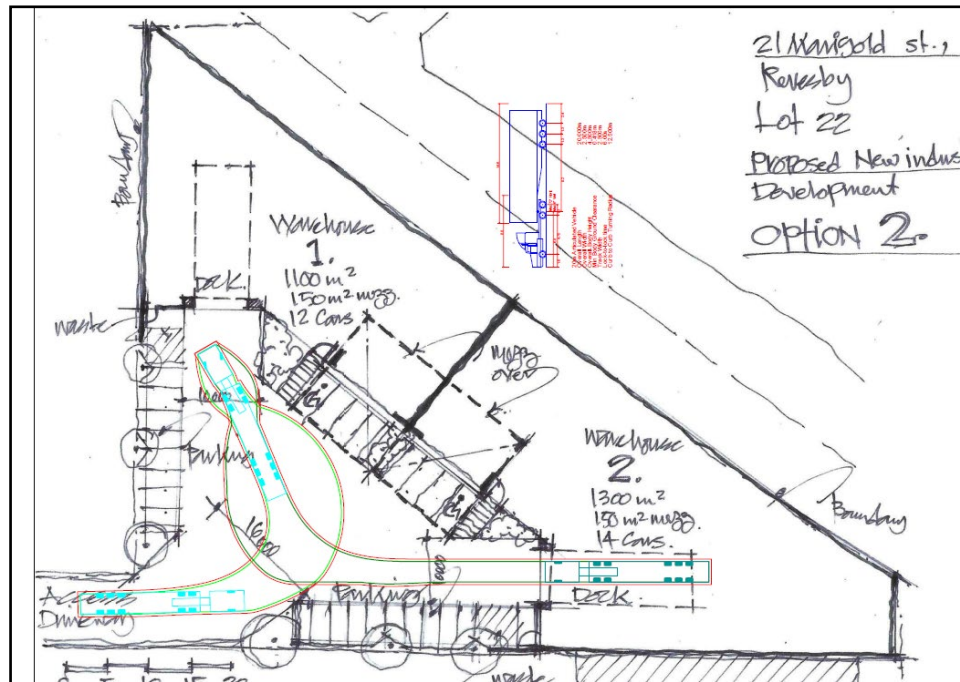


Figure 7: Concept future forward-in / forward-out configuration

As both lots will provide compliant site areas and have demonstrated an ability to be redeveloped for general industrial purposes, it is considered that the application as proposed achieves consistency with the objectives of the BLEP 2015 Clause 4.1.

Based on an assessment of the applicant's Clause 4.6 variation request, the consent authority can be satisfied that compliance with the subject control is unnecessary, that there are sufficient environmental planning grounds to warrant the non-compliance and that approval of the variation is within the public interest given the proposal's satisfaction of the objectives of the zone IN1 General Industrial, being the provision of land for a range of industrial and warehouse uses to create employment opportunities and the support / protection of industrial uses.

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

##### **Draft Canterbury Bankstown 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 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 section provides assessment and compliance tables against the applicable controls contained within Bankstown Development Control Plan 2015 - Part B3 – Industrial Precincts and Part B5 – Parking.

<b>Bankstown Development Control Plan 2015</b>			
Clause	Requirement / Provision	Comment	Compliance
<b>Part B3 – Industrial Precincts</b>			
2.1 Site Coverage	Site coverage on an allotment must not exceed 70% for single business or 60% for two or more businesses	1,302.6m <sup>2</sup> / 4,499m <sup>2</sup> = 29% site coverage for the rear lot, retaining buildings.	Y
2.7 Riparian Setback	Development set back 15 metres from riparian corridor	Adjoining waterway is not identified as a riparian corridor per the Riparian Lands and Watercourses Map of BLEP 2015	N/A
3.17 Safety and Security	Allotment that adjoins a rail corridor or stormwater channel to be: <ul style="list-style-type: none"> <li>a. treated with hedging or vines to screen the corridor</li> <li>b. hedging of vines to be completed prior to completion with a minimum 300mm pot size</li> <li>c. self-timed irrigation for planter bed</li> <li>d. enclosed with a 2-metre tall chain-wire fence</li> <li>e. provide secure access point through fence</li> <li>f. hedging or vines to be planted along building wall that fronts corridor</li> <li>g. Other measures to avoid graffiti can be considered</li> </ul>	No building works are proposed with this application	N/A
3.18 General	Consideration of: <ul style="list-style-type: none"> <li>a. adequate off-street parking</li> <li>b. suitability of landscaping, particularly in the front setback</li> </ul>	Proposed subdivision has been demonstrated to allow for the forward entry / exit of vehicles, including heavy rigid vehicles, which is considered to result in a suitable industrial	Y

Bankstown Development Control Plan 2015			
Clause	Requirement / Provision	Comment	Compliance
	c. contribution to or improvement of character of locality d. access through non-residential street e. screening of goods and equipment f. detracting of amenity for nearby residential area adoption of energy efficiency measures	development outcome	
4.3 – 4.8 Open Space	Minimum landscaping, tree planting and provision for amenities.	The requirements of this section would be applied to any future development application to construct on either proposed site.	N/A
PART B5 – PARKING			
2.1 Off-street parking spaces	Industrial land use: 1 per 100sqm of GFA	The structure to be retained on proposed lot 22 is single-storey with a GFA of 1087.3m <sup>2</sup> , requiring 11 on-site car parking spaces. 12 car parking spaces are provided along the north-east boundary (of proposed lot 22).	Y

Based on the above, the proposed development is considered to satisfactorily address the relevant provisions of Part B3 and B5 of the BDCP 2015.

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

No planning agreement has been entered into.

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

The development is consistent with the provisions contained within 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 site is considered suitable for the development.

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

No submissions have been received by Council with regard to the subject development application.

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

Approval of the development would be consistent with the wider public interest.

**CONCLUSION**

The Development Application has been assessed in accordance with the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act 1979*, which required, amongst other things, an assessment against the provisions contained within State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, Bankstown Local Environmental Plan 2015, Draft Canterbury Bankstown Local Environmental Plan 2020, and Bankstown Development Control Plan 2015.

The proposal seeks consent for the subdivision of land following partial demolition of structures on site. While the post-subdivision lot areas comply with BLEP 2015, one of the allotments is proposed in a battle-axe configuration which fails to establish the required street frontage. Despite this non-compliance, it is considered that the development application is an appropriate outcome in the context of the surrounding locality and will provide for a functional industrial property.

**RECOMMENDATION**

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



## SCHEDULE OF CONDITIONS

### 1. Approved Development.

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

Plan No.	Plan Name	Date	Revision	Prepared By
DA-101	Subdivision Plan	Feb 2021	A	Manor House Design
DA-102	Demolition Plan	Feb 2021	A	Manor House Design
DA-201	Existing Ground Floor Plan	Feb 2021	A	Manor House Design
DA-202	Existing First Floor Plan	Feb 2021	A	Manor House Design
DA-203	Existing Roof Plan	Feb 2021	A	Manor House Design
DA-301	Warehouse Elevations	Feb 2021	A	Manor House Design
DA-401	Site Elevations	Feb 2021	A	Manor House Design

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

- 1.2. No approval is granted for use of the site/units through this Determination Notice. Separate consent through a new development application to Council is required before to any use of the site/units.
- 1.3. A separate application shall be submitted to Council prior to the erection of any additional signage unless the proposed signage is "exempt development" in accordance with relevant legislation.
- 1.4. Implementation of the ongoing environmental management plan prepared by iEnvironmental titled, '*Long Term Environmental Management Plan 3.0 FINAL, 21 Marigold Street, Revesby NSW 2122*', dated February 2019, reference 20180101 and any other conditions in the Site Audit Statement prepared by Mr Tim Chambers, Site Audit Statement Number, 10019136 SAR must be adhered to and interpreted to form part of development consent.

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

- 2.1. 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](http://www.sydneywater.com.au/tapin) for Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPINTM.

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

- 2.2. 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.
- 2.3. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity.
- 2.4. A long service levy payment which is calculated to be 0.35% of the total cost of the construction work must be paid to the Building and Construction Industry Long Service Payments Corporation. Payment can be made via the [Long Service Portal](http://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 2.5. The person having benefit of this Determination Notice shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
  - a. Repair of any damage to the public road including the footway occurring during building works, and
  - b. Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

- 2.6. 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.

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

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

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

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

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



- 2.8. A Trade Waste Agreement shall be obtained from Sydney Water prior to 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*.
- 2.9. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the Principal Certifier prior to the issue of the construction certificate.
  - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.10. Unless elsewhere permitted the following works shall be constructed by the applicant under Council supervision in accordance with plans and specifications to be approved by Council / Accredited Certifier - Civil. The plans shall be prepared by a qualified practising Civil Engineer in accordance with Council's Bankstown Development Engineering Standards and submitted for approval with the application for a Construction Certificate.
- a. Stormwater drainage associated with separating the two lots, and as designed by the approved drainage plans.
  - b. Kerb and gutter, and a 1.2m wide footpath access along the northern edge of the access handle. This may require further stormwater provisions which shall be included in the design
- Design details submitted for approval shall be in accordance with the requirements specified for "Residential Battle-axe Subdivisions-Access Corridor Pavements" in Council's Bankstown Development Engineering Standards.
- 2.11. 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 a professional engineer as defined by the Building Code of Australia 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 a professional engineer as defined by the Building Code of Australia that it complies with Council's Bankstown Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

Drawing Number	Date	Revision	Prepared By
HDA01/P3 to HDA06/P3	24-06-2021	P3	Inline Hydraulic Services

- 2.12. Any relevant pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifier for approval prior to the issue of a construction certificate.
- 2.13. The existing building must be brought into conformity with the requirements of the Building Code of Australia (BCA) appropriate to the proposed new boundary location, and to protect persons using the building, facilitate their egress from the building in the event of fire, or to restrict the spread of fire from the building to other buildings nearby. Details must be provided to the certifier prior to the issue of a construction certificate.

### 3. Conditions to be Satisfied Before Construction.

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

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

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

- a. the principal certifier has, no later than 2 days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of his or her appointment as the principal certifier,
- b. the principal certifier has, no later than 2 days before the building work commences, notified the person having the benefit of this Determination Notice of any inspections that are required to be carried out in respect of the building work,
- c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,

- d. the person having the benefit of this Determination Notice, if not carrying out the work as an owner-builder, has:
    - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involve, and
    - ii. notified the principal certifier of the appointment, and
    - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
  - e. the person having the benefit of this Determination Notice has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.
- 3.3. 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).
- 3.4. 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.
- 3.5. Prior to the commencement of work, the person having the benefit of this Determination Notice must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.6. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the person having the benefit of this Determination Notice apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates or telephone 13 20 92.
- 3.7. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

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

- 3.8. 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.

- 3.9. Any demolition must be undertaken in accordance with all the following:
- a. Written notice must be issued to adjoining residents a minimum of seven (7) days before to the commencement of demolition advising of the commencement date,
  - b. Written notice must be issued to Council for inspection a minimum of (7) days before to 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 to 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 to 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 2601-2001 – 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 to the commencement of any building work.

#### **4. Conditions to be Satisfied During Construction.**

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

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

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

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

- 4.3. 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.
- 4.4. 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.
- 4.5. While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:
- a. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
  - b. All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.
- 4.6. 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.
- 4.7. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —
- a. Protect and support the building, structure or work from possible damage from the excavation, and
  - b. Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- 4.8. 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 person having benefit of this Determination Notice encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.9. 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.

**5. Conditions to be Satisfied Before Occupation.**

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.3. Twelve (12) off street car spaces being provided in accordance with the submitted plans on Lot 22.
- 5.4. A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 5.5. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the Principal Certifier prior to the issue of an occupation certificate.

**6. Conditions to be Satisfied Before the Issue of a Subdivision Certificate.**

- 6.1. The developer shall create the following easements, where necessary over the relevant lots, on the plan of subdivision under provisions of the Conveyancing Act. A statement shall be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority empowered to release, vary or modify the easements created.
  - a. Easements to drain water (for inter-allotment drainage).
  - b. Easement for services (for utilities).
  - c. Right of carriageway (for internal driveway, vehicle manoeuvring).
  - d. Easement for overhang (for eaves and gutters).



- 6.2. An application and appropriate fees for the issue of a Subdivision Certificate shall be submitted to Council upon all works being completed.
- 6.3. The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
- a. Original plan of subdivision prepared and signed by a qualified surveyor, plus five (5) copies;
  - b. Copy of the relevant development consent, including all Section 96 Modifications if applicable,
  - c. Works as executed engineering plans (where required).
  - d. Evidence that all conditions of consent relevant to subdivision have been complied with,
  - e. A certificate of compliance (Section 73 Certificate) from Sydney Water if required,
  - f. Final occupation certificate for all works.
  - g. Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services.
  - h. Copy of the Work Permit Compliance Certificate, where required.

The subdivision certificate shall not be issued until all of the required information listed above (where relevant) has been submitted.

- 6.4. The subdivision certificate shall not be issued until the final Occupation Certificate has been issued for the building, site and demolition works.

## **7. Conditions of Ongoing Use of Lot 22.**

- 7.1. No approval is granted or implied for the use of any of the warehouse / industrial units in proposed Lot 22.

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

- 7.2. Car parking spaces for vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 7.3. Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

- 7.4. All loading and unloading of goods shall take place within the site or from the adjoining service lane in a manner that does not interfere with parking areas, driveways or landscaping.
- 7.5. All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.
- 7.6. 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.
- 7.7. All industrial activities are to be confined within the building and no such activity shall occur externally to the building and this shall include loading and unloading, also storage of new and used materials.
- 7.8. Identification number/s are to be conspicuously displayed at the front of the premises. An official "property numbering" letter is issued to the person having benefit of this Determination Notice indicating the proposed numbering of the new development. Property numbering without Council's written approval is not permitted.

-END-