



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

**7 November 2022 - 6:00 PM**

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# ORDER OF BUSINESS

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**APOLOGIES AND DECLARATIONS**

**CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**BUNYA / REVESBY WARD**

**1 DA-305/2022 - 41 Burbank Avenue, East Hills**

Demolition of existing dwelling and construction of a two-storey attached dual occupancy with shared semi basement garage and shared spa/pool with strata title subdivision into two lots. Waterfront boatshed, ramp and gazebo to be retained. .... 3

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## Canterbury Bankstown Local Planning Panel - 07 November 2022

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<b>ITEM 1</b>	<b>DA-305/2022 - 41 Burbank Avenue, East Hills</b>
	<b>Demolition of existing dwelling and construction of a two-storey attached dual occupancy with shared semi basement garage and shared spa/pool with strata title subdivision into two lots. Waterfront boatshed, ramp and gazebo to be retained.</b>
<b>FILE</b>	<b>DA-305/2022 – Bunya / Revesby Ward</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>26 April 2022</b>
<b>APPLICANT</b>	<b>Amin Azam</b>
<b>OWNERS</b>	<b>Nina Trad Azam</b>
<b>ESTIMATED VALUE</b>	<b>\$1,796,342</b>
<b>AUTHOR</b>	<b>Planning</b>

### REPORT

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This matter is reported to the Canterbury-Bankstown Local Planning Panel as the applicant seeks a variation to Clause 4.3(2B)(b) – Wall Height, of the Bankstown Local Environmental Plan 2015 by more than 30%. The application proposes a maximum wall height of 9.864m, resulting in a 40.9% variation to the development standard. As such, the proposed variation to the development standard is in excess of the Council's delegations.

Development Application No. DA-305/2022 proposes demolition of the existing dwelling and construction of a two-storey attached dual occupancy with shared semi basement garage and shared spa/pool, strata title subdivision into two lots and retention of the existing waterfront boatshed, ramp and gazebo.

The application has been assessed against the Bankstown Local Environmental Plan (BLEP) 2015 and Bankstown Development Control Plan (BDCP) 2015, and fails to comply with Clause 4.3(2) and Clause 4.3(2B)(b) of the BLEP 2015 with regards to heights of building. In addition, the proposed development fails to comply with Clause 4.4, Clause 4.21 and Clause 14.14 of Part B1 – Residential Development of the BDCP 2015 with regards to storey limit, balcony and swimming pool designs.

Despite the proposed non-compliances and for the reasons outlined in this report, the proposed development is worthy of the Panel's support.

The application was notified for a period of fourteen (14) days between 3 May 2022 to 17 May 2022. No submissions were received in relation to the proposed development.

## **POLICY IMPACT**

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This matter has no direct policy implications.

## **FINANCIAL IMPACT**

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This matter has no direct financial implications.

## **RECOMMENDATION**

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

## **ATTACHMENTS**

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- A. Assessment Report
- B. Conditions of Consent

## **DA-305/2022 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

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

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

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

The site is currently occupied by a two-storey dwelling with an existing boat shed and jetty towards the rear of the site. To the immediate northwest adjoins a three-storey dwelling and to the immediate southeast adjoins a two-storey dwelling. The developments opposite the subject site on the eastern side of Burbank Avenue consists of two-storey dual occupancies and two-storey dwellings.



**Figure 1: Aerial photo of the subject site**      **Source: NearMaps 2021**





**Figure 2:** Rear view of No. 39 (Left) and No. 41 (Right) Burbank Avenue  
**Source:** Site Visit 2 September 2021



**Figure 3:** Existing side elevation      **Source:** Site Visit 2 September 2021

### **PROPOSED DEVELOPMENT**

The Development Application proposes demolition of the existing dwelling and construction of a three-storey attached dual occupancy with shared semi basement garage and shared spa/pool, strata title subdivision into two lots and retention of the existing waterfront boatshed, ramp and gazebo.

The upper floor of the building comprises of a guest bedroom, formal living area, gallery and courtyard, laundry, kitchen/pantry, and a rear family and dining area to each dual occupancy unit.

The mid floor of the building comprises of semi-basement garage, bedrooms 1 and 2, and a master bedroom to each dual occupancy unit.

The lower floor of the building comprises of a bedroom/office, rumpus room and outdoor entertainment area to each dual occupancy unit.

The proposed development also seeks an elevator shaft connecting all levels of each dual occupancy unit, a shared swimming pool, cabana and boatshed to the rear of the site.

### **Statutory Considerations**

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

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Draft Consolidated Canterbury-Bankstown Local Environmental Plan 2020
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Bankstown Development Control Plan 2015 (BDCP 2015)

### **SECTION 4.15 ASSESSMENT**

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

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

#### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The proposal has been assessed against the relevant aims and objectives of this State Environmental Planning Policy which seeks to protect remaining native vegetation within urban areas. It is considered that the site does not contain remnant native vegetation and is consistent with the aims of the instrument.

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

In accordance with BASIX SEPP, a BASIX Certificate accompanies this application. The Certificate makes a number of energy/resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy objectives of the SEPP. The BASIX Certificate requirements have been incorporated into conditions of consent.

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

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

A review of the history of the site shows that the subject site has generally only been used for residential purposes. Given that the site has been used for only residential purposes, the site is considered to be consistent with State Environmental Planning Policy (Resilience and Hazards) 2021.

### Bankstown Local Environmental Plan 2015

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

BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2015			Compliance		
			Y	N	N/A
Clause	Standard / Requirement	Comment			
<b>Part 1 Preliminary</b>					
1.2	Aim of Plans		✓		
<b>Part 2 Permitted or prohibited development</b>					
2.3	Zone objectives and Land Use Table		✓		
2.6	Subdivision—consent requirements		✓		
2.7	Demolition requires development consent		✓		
<b>Part 4 Principal development standards</b>					
4.1A	Minimum lot sizes and special provisions for dual occupancies		✓		
4.3(1)	Height of buildings Two-Storeys	The proposed development is inconsistent with objective (b) which reads:  <i>to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone R2 Low Density Residential,</i>		✓	
4.3(2)	Height of buildings 9m max building height	Building height is measured at 10.264m i.e. 14% departure from the development standard.		✓	
4.3(2B)(b)	Height of buildings 7m max wall height for dual occupancies	Wall height is measured at 9.864m, from the lowest natural ground level, to the underside of the eaves, i.e. 40.9% departure from the development standard.		✓	



BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2015			Compliance		
			Y	N	N/A
4.4	Floor space ratio Max 0.5:1	GFA = 654.8m <sup>2</sup> Site = 1360m <sup>2</sup> FSR = GFA / Site = 0.48:1	✓		
4.5	Calculation of floor space ratio and site area		✓		
4.6	Exceptions to development standards	The applicant has submitted a Clause 4.6 variation request to Clause 4.3(2) and Clause 4.3(2B)(b) of the BLEP 2015.	✓		
Part 5 Miscellaneous provisions					
5.4	Flood planning		✓		
Part 6 Additional local provisions					
6.1	Acid sulfate soils		✓		
6.2	Earthworks		✓		
6.5	Limited development on foreshore area		✓		

As demonstrated above, the proposal is generally consistent with the aims, objectives and development standards of BLEP 2015. Further discussion is provided below with respect to the contravention to the height of buildings and wall height development standards contained in Clause 4.3, and the associated Clause 4.6 submissions to seek flexibility in the application of these development standards.

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

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

#### **4.3 Height of Buildings**

- (2) *The height of a building on any land is not to exceed the maximum height shown of the land on the Height of Buildings Map*

The Height of Buildings Map contained in the BLEP 2015 allows a maximum permissible building height of 9 metres for the subject site.

The maximum building height of the proposed development is measured at 10.264m along the northern elevation (from 17.40 RL to 7.136 NGL). The non-compliance represents a 14.0% variation to the development standard.



**Figure 4:** Building Height – North Elevation **Source:** Architectural Plans Revision E

The applicant has provided a written request to vary maximum building height under the provisions of Clause 4.6 – Exceptions to development standards of the BLP 2015. In consideration of the Clause 4.6 variation request, Clause 4.6(3) of the BLP 2015 requires the following:

#### 4.6 Exceptions to development standards

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The following justifications from the applicant's written Clause 4.6 variation request in consideration of Clause 4.6(3), reads as follows:

- *The majority of the built form complies with the 9m building height standard. The height variation to the roof form is largely a result of the fall on the site being 11.21m from the front boundary to the rear of the proposed building footprint, and the cross fall of the site. The building has been designed to comply with building height at the southern elevation and steps with the topography, the fall along the site length, combined with the cross-fall results in a portion of the building exceeding the height limit. Compliance with the standard is unreasonable in this instance as the building has been designed to comply at the southern elevation and step with the topography.*
- *The existing excavated ground level of the subject site, results in a cross fall, additional to the fall lengthways on the allotment. The building has been designed to meet the building height limit at the southern elevation, however the cross-fall results in a portion of the building exceeding the height limit.*

- The variation to the height standard will not result in unreasonable amenity impacts to adjoining properties noting the portion of the roof form exceeding the building height development standard will not result in unreasonable overshadowing of the adjoining properties, visual privacy impacts or a loss of outlook-views. Further, the building height variation will not impact on the outlook/views currently obtained from Burbank Avenue and Georges River.
- The proposed development has been amended to provide lowered floor levels and internally stepped as feasibly possible to achieve an appropriate built form on site, that extends from the established front and rear building alignment and contains a central lift access noting the site slope. The portion of the building that does not comply directly corresponds to the steepest part of the site that contains a rock outcrop.
- The subject site is located between existing developments at 39 Burbank Avenue, and 49 Burbank Avenue, East Hills. Both of these buildings have been approved with variations to the height of buildings development standard, demonstrating the topographical constraint (slope) is present across the row of dwellings.

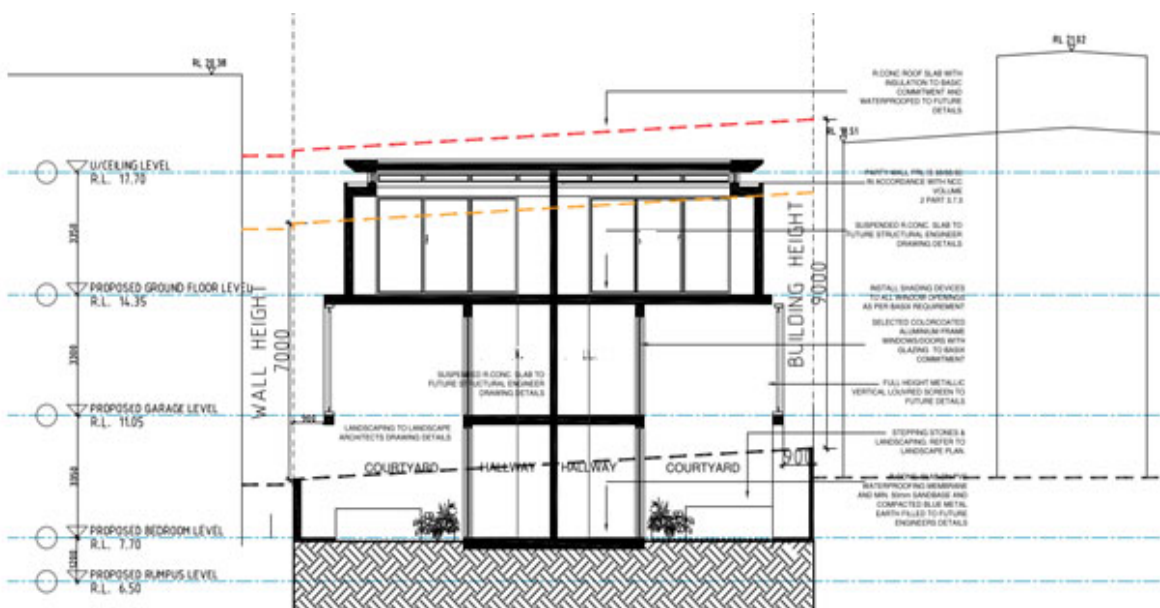


Figure 5: RL Source: Architectural Plans Revision E

As seen in the figure above, the proposed building height non-compliance is at 17.40 RL, and comparatively lower than the building height of 20.38 RL for 39 Burbank Avenue and 18.51 RL for 51 Burbank Avenue. It is demonstrated that while the approved building height variation were supported for the immediate adjoining properties, the applicant has designed the building height lower despite the non-compliance with the development standard.

The Clause 4.6 variation adequately demonstrates that compliance with the development standard is both unreasonable and unnecessary in this particular circumstance given that the proposed non-compliance is not a result of poor design, rather it is a response to a constraint imposed by the steep slope and existing natural ground levels of the subject site.

It is considered that the proposed non-compliance is worthy of support given that there are sufficient environmental planning grounds to justify contravening the development standard.

In addition, Clause 4.6(4)(a) also requires the following:

Clause 4.3(2B)(b) of the BLEP 2015 read as follows:

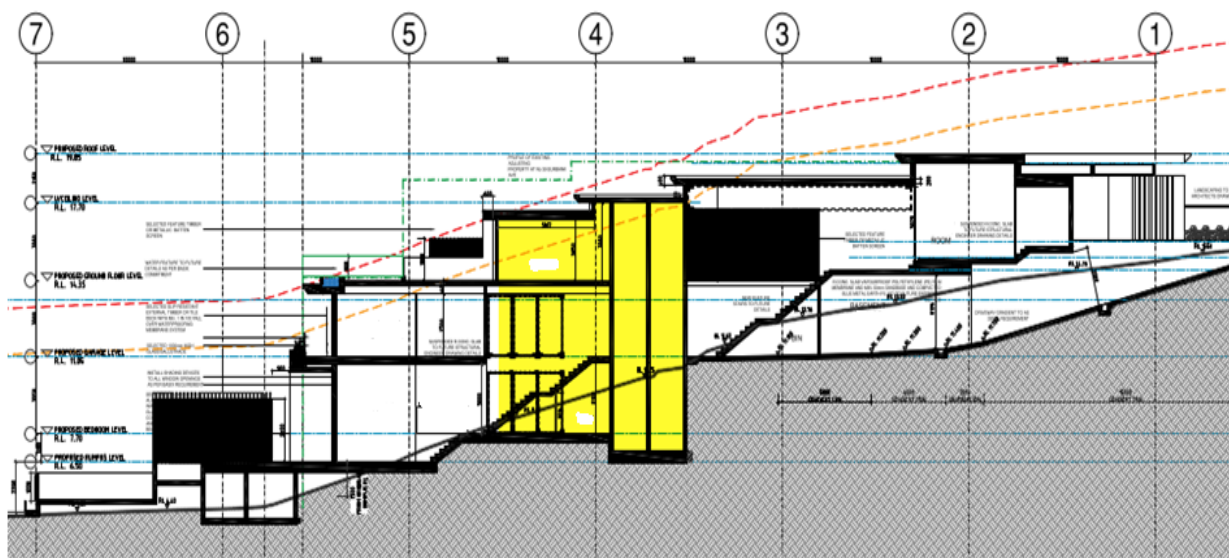
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
- (a) *the consent authority is satisfied that—*
- i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The following justifications from the applicants written Clause 4.6 variation request in consideration of Clause 4.6(4)(a), read as follows:

- *The proposed development is consistent with the relevant Objects 1.3(c), 1.3(2) and 1.3(g) of the Environmental Planning and Assessment Act 1979."*
- *The proposed development is consistent with the Aims (2b), 2(c), 2(d), 2(f) and 2(i) of the Bankstown Local Environmental Plan 2015.*
- *The proposed development is consistent with the Objectives in R2 Low Density Residential Zone of the Bankstown Local Environmental Plan 2015.*
- *The proposed development is generally consistent with the Objectives of Clause 4.3 – Height of Buildings of the Bankstown Local Environmental Plan 2015.*
- *The design of the building ensures that despite the development's variation to height standard, the proposed dual occupancy will achieve suitable residential amenity that is an appropriate built form for the site; and maintains a bulk, scale and streetscape consistent with contemporary and existing dwellings in the immediate locality.*

In addition, the objectives of Clause 4.3(2) of the BLEP 2015 read as follows:

- (1) *The objectives of this clause are as follows—*
- (a) *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,*
  - (b) *to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone R2 Low Density Residential,*
  - (c) *to provide appropriate height transitions between development, particularly at zone boundaries,*
  - (c) *to define focal points by way of nominating greater building heights in certain locations.*



**Figure 6:** Three Storey Element (Section) **Source:** Architectural Plans Revision E

As seen in the figure above, the proposed three-storey element consists of the lower floor staircase, elevator and hallway access; the mid floor staircase, elevator, hallway access, bedroom 1 and bathrooms; and the upper floor staircase, elevator, hallway access, laundry and pantry, kitchen and dining elevator, and family room. The three-storey element of the proposal represents approximately 9.4% of the building footprint. In this regard, the proposed development is inconsistent with objective (b) of Clause 4.3(2) of the BLEP 2015.

The applicant has provided the following justifications:

- *The proposed development presents a single storey built form to Burbank Avenue and two-storeys when viewed from Georges River. The three-storeys will not present an uncharacteristic building height or scale when compared to the row of two-three storey dwellings along Burbank Avenue.*



- *When viewed from the side elevation, the three-storey element is not considered to contribute to the bulk and scale of the proposed development given that the portion of the lower floor level is set a maximum 1.2m below the existing natural ground level, consists only of the hallway access to the staircase, powder room (for the purposes of the swimming pool) and elevator shaft.*
- *The three-storey element of the proposed development is a result of the steep topography of the site, the cross fall and the existing natural ground levels of the site. Strictly accommodating only two-storeys across the whole site will have detrimental impact to the layout and amenity of the proposed development where split floor levels will consist of numerous split staircases/steps that do not connect all levels through a centralized section of the building.*
- *The proposed development has been designed to accommodate split floor levels where appropriate and feasible, and a central staircase and elevator shaft that connects all levels. It is noted that the lower floor has been designed with access to the mid and upper floors and does not comprise of any adequately sized habitable floor areas.*
- *As such, it is considered that the proposed development is generally consistent with Objective (b) as the proposed development is in keeping with the two-storey limit when viewed from the front and rear, does not contribute to bulk and scale and has been cleverly designed to provide amenity to future occupants.*

A variation to the overall building height development standard is considered acceptable in this instance, based on the arguments and assessment of impacts presented within the applicant's Clause 4.6 variation request. In addition, the proposed development is generally consistent with the objectives of Clause 4.3 of the BLEP 2015; and is consistent with the relevant aims of the BLEP 2015 and objectives of R2 Low Density Residential Zone as prescribed in the BLEP 2015.

#### Clause 4.3 Height of Buildings – Wall Height

Clause 4.3(2B)(b) of the BLEP 2015 reads as follows:

#### **4.3 Height of Buildings**

- (2B) *Despite subclause (2), the following restrictions apply to development on land in Zone R2 Low Density Residential—*
- (b) *for a dwelling house or a dual occupancy—the maximum wall height is 7 metres,*

The maximum wall height of the proposed development is measured at 9.864m along the northern elevation (from 17.00 RL to 7.136 NGL). The non-compliance represents a 40.9% variation to the development standard.

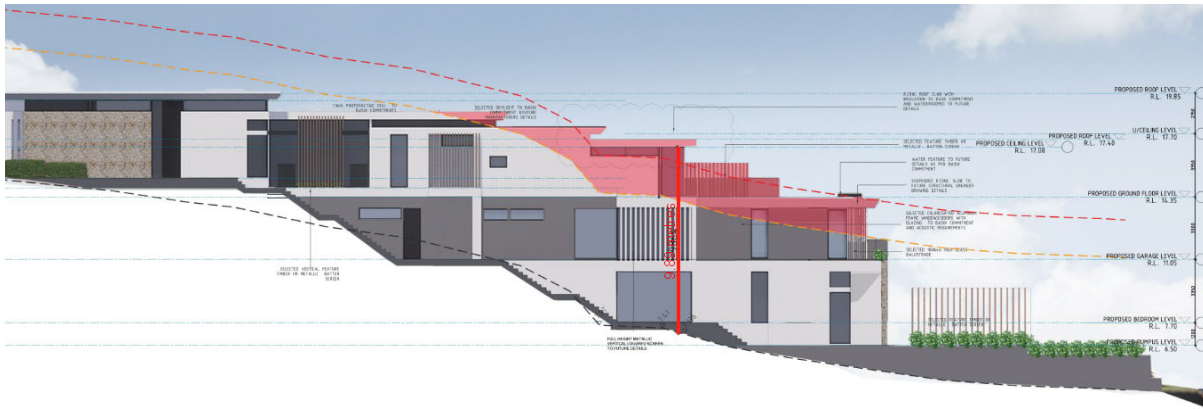


Figure 7: Wall Height non-compliance

Source: Architectural Plans Revision E

The applicant has provided a written request to vary the maximum wall height under the provisions of Clause 4.6 – Exceptions to development standards of the BLEP 2015.

The following justifications from the applicant's written Clause 4.6 variation request in consideration of Clause 4.6(3), read as follows. These justifications generally echo those submitted with respect to the proposed overall building height departure:

- *The development proposal is situated on a sloping site, and the proposed variation is the direct result of the site topography and features of the land which includes a large rock outcrop central to the built form. Compliance with the standard is unreasonable in this instance as the variation is the direct result of the site topography, particularly the steep fall at the central portion of the building footprint to the rear building line.*
- *The building has been lowered and internally stepped as feasibly possible to achieve an appropriate built form on site, that extends from the established front and rear building alignment and contains a central lift access noting the site slope. The portion of the building that does not comply directly corresponds to the steepest part of the site that contains a rock outcrop.*
- *The variation to the wall height control will not result in unreasonable amenity impacts to adjoining properties noting the portion of the elevations exceeding the wall height control will not result in unreasonable overshadowing of the adjoining properties or a loss of outlook-views. Further, the wall height variation will not impact on the outlook/views currently obtained from Burbank Avenue.*
- *The subject site is immediately adjoined by two developments, 38 and 49 Burbank Avenue, East Hills which both present approved wall heights greater than 7m and comparatively higher to that proposed under this application. The portion of the building which varies the wall height limit, is set back from the rear façade and a lower height than the façade of 39 Burbank Avenue which immediate adjoins the external wall.*

Given that the proposed development conveys a contemporary design with a flat roof form, the wall height and overall building height are intrinsically linked with one another. Accordingly, just as the proposed overall building height departure is deemed worthy of support, so too is the proposed wall height departure. The proposed development would not result in unsympathetic views from the street and approval of the proposed development would not result in an undesirable character and streetscape impact within the immediate locality when regarding bulk and scale. In addition, the applicant has designed a 1.5m side setback for the portion of the building where wall height exceeds 7m and therefore is compliant with Clause 4.11, Part B1 – Residential Development of the BDCP 2015 (which requires that the side setback increases as the wall height increases).

It is noted that strict compliance with the building height standard would require further stepped-floor design to be incorporated on all floor levels, in particular the upper floor family, kitchen and dining areas which would create undesirable amenity impacts to the future occupants of the proposed development. Alternatively, the rear primary living areas would be required to be setback further which would have detrimental impacts to the amenity and layout of the proposed development.

As such, strict compliance with the development standard is considered to be unreasonable and unnecessary in this particular instance as there are sufficient environmental planning grounds to justify contravening the development standard.

The following justifications from the applicant's written Clause 4.6 variation request in consideration of Clause 4.6(4)(a) of the BLEP 2015, read as follows:

- *The development proposal presents a single storey form to Burbank Avenue and the proposed built form will not present unreasonable bulk and scale impacts to the public domain or adjoining properties,*
- *The building is an articulated/contemporary built form that is a suitable built form – height for this site that is consistent with the context and scale of contemporary dwellings in the locality,*
- *The wall height reflects a suitable form and scale of development to Burbank Avenue consistent with the envisioned character of development within the R2 – Low Density Residential locality, and*
- *The variation to the wall height standard is largely a result of the site topography with the sloping site resulting in stepping of the built form, but also dictating a development on a narrow floor plate to provide good natural light and functionality to the living areas at the upper level.*
- *The request for a degree of flexibility in numeric compliance with the height development standard is specific to the subject site conditions. The proposal does not undermine the intent and effectiveness of the maximum wall height development standard in Clause 4.3 or the objectives of the height development standard and the zone for achieving positive outcomes on environmental planning grounds.*

A variation to the maximum wall height development standard is considered acceptable in this instance, based on the arguments and assessment of impacts presented within the applicant's Clause 4.6 Variation Request. In addition, the proposed development is generally consistent with the objectives of Clause 4.3 of the BLEP 2015; and is consistent with the relevant aims of the BLEP 2015, objectives of R2 Low Density Residential Zone as prescribed in the BLEP 2015 and objectives of Section 4 – Dual Occupancy in Part B1 – Residential of the BDCP 2015.

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

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

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)]**

**Bankstown Development Control Plan 2015**

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

BANKSTOWN DEVELOPMENT CONTROL PLAN 2015 / PART 1 RESIDENTIAL DEVELOPMENT			Compliance		
Clause	Standard / Requirement	Comment	Y	N	N/A
<b>Section 4–Dual Occupancies</b>					
Objectives			✓		
4.1	Subdivision (attached) Minimum 250m <sup>2</sup> per lot	Each lot > 250m <sup>2</sup>	✓		
4.4	Two-storey limit (not including basements)  The storey limit for dual occupancies is 2 storeys.  Max 7m WH and 9m BH in foreshore area	Three storeys in part WH = 9.864m BH = 10.264m		✓	

BANKSTOWN DEVELOPMENT CONTROL PLAN 2015 / PART 1 RESIDENTIAL DEVELOPMENT			Compliance		
			Y	N	N/A
4.5	Siting	The siting of the dual occupancies is compatible with the slope and contours of the site.  The proposed development incorporates stepped floor designs.	✓		
4.6	Cut and Fill  Max 600mm fill  Freeboard max 1m fill contained within ground floor perimeter	Subject site is flood affected.  Lower floor level does not exceed 1m above the NGL	✓		
4.8	Front setback  Minimum 5.5m	12.1m front setback	✓		
4.11	Side setbacks  Minimum 900mm side setback for wall height less than or equal to 7m	900mm side setback	✓		
4.11	Side setbacks  Minimum 1.5m side setback for wall height greater than 7m	1.5m side setbacks for WH > 7m	✓		
4.14	Private open space  Minimum 80m <sup>2</sup>	POS > 80m <sup>2</sup>	✓		
4.15	Solar access  Minimum 3 hours to living areas	Minimum 3 hours to living areas	✓		
4.16	Overshadowing  Minimum 3 hours to adjoining living areas	Minimum 3 hours to living areas	✓		
4.17	Overshadowing  Minimum 3 hours to 50% POS of the property and adjoining sites	Minimum 3 hours to POS of property and adjoining sites	✓		
4.19	Visual privacy to adjoining windows	Sufficient privacy proposed	✓		
4.20	Visual privacy to private open spaces	Sufficient privacy proposed	✓		
4.21	Visual privacy to rear balconies  Maximum 1.5m width, not accessible of living spaces and incorporate screening	The uppermost balcony is located at the ground floor (at the street level). Considering the site topography and design, the ground floor balconies are considered acceptable.  There are no upper floor side or rear balconies proposed.		✓	
4.25	Max 35-degree roof pitch	Flat roof proposed	✓		
4.28	Development in foreshore area	Materials utilised are compatible with the characteristics of Georges River	✓		



BANKSTOWN DEVELOPMENT CONTROL PLAN 2015 / PART 1 RESIDENTIAL DEVELOPMENT			Compliance		
			Y	N	N/A
4.30	Car parking Minimum 2 spaces	Proposed basement garage with two spaces	✓		
<b>Section 14–Ancillary Development (Outdoor Structures)</b>					
14.14	If within 30 metres of a river the pool must not have a height of more than 300mm above existing NGL and must have an open style fence	Pools at RL 5.9 i.e. greater than 300mm above the NGL		✓	

As demonstrated above, the proposal is generally consistent with the objectives and development controls of BDCP 2015. Further discussion is provided below with respect to the variation to the maximum two-storey, rear balcony, and swimming pool design controls, as well as the justifications provided by the applicant to seek flexibility in the application of the development controls.

#### Number of Storeys

Clause 4.4, Part B1 of the BDCP 2015 reads as follows:

**4.4** *The storey limit for dual occupancies is 2 storeys.  
In addition, dual occupancies in the foreshore protection area (refer to map in Appendix 1) must ensure the wall height does not exceed 7 metres and the building height does not exceed 9 metres.*

The proposed dual occupancy generally presents as a one-storey development when viewed from Burbank Avenue and a two-storey development when viewed from Georges River. The three-storey element is located in the mid-section of the building and consists of a staircase, hallway access, elevators, bedrooms, bathroom, laundry, pantry and living areas on the lower, mid and upper floors and represents 9.4% of the building envelope.

The non-compliance with the development control is a result of the steep topography of the site and the rock outcrop central to the built form, however the proposed development has been designed with generally two-storey transitional elements with stepped and split floor levels. As discussed in the justifications for Objective (b) of Clause 4.3(1) of the BLEP 2015 earlier in this report, the lower ground floor has been designed only with access via the staircase, hallway and elevator with powder room for access to the upper floors and does not comprise of any substantial habitable floor areas.

When viewed from the side elevation, the proposed three-storey element is not considered to contribute to bulk and scale, however remains consistent with the existing streetscape and rear waterfront of Burbank Avenue. Support of this variation would not create an undesirable outcome, rather it would be compatible with the existing and recent approvals in the immediate locality.

In addition, the proposed variations to the wall height and building height development standards has been discussed under the BLEP 2015. A variation to the maximum number of storeys development control can be supported in this instance given the above justifications.

### Balcony Design

Clause 4.21, Part B1 of the BDCP 2015 reads as follows:

**4.21** *Council may allow dual occupancies to have an upper floor side or rear balcony solely where the balcony is not accessible from a living area or hallway, and the balcony design:*

- (a) does not have an external staircase; and*
- (b) does not exceed a width of 1.5 metres throughout; and*
- (c) incorporates a form of screening to the satisfaction of Council such as partially recessing the balcony into the building.*

The rear balconies to each dual occupancy dwelling on the ground floor exceeds a maximum depth of 1.5m and are accessible via rear living areas and therefore fail to comply with the development control.

The following written justification was provided by the applicant.

*"...The design of the building with the large upper level balcony is a response to the orientation of the subject site and topography, with the internal primary living area located at the top level of the development to maximise solar access. This design response is consistent with the approved design response on the adjoining dwellings at 39 and 49 Burbank Avenue, East Hills, demonstrating this site constraint is not limited to the subject site.*

*The variation is acceptable given the site slope and balcony provides an external area directly adjoining the primary living area. The balcony will not present privacy impacts, being set back from the side boundaries and is designed within the building foot print of the dwellings. The balcony includes a water feature and planter boxes/privacy screens along the edges of the balconies, preventing access to the balcony edges. "*

The non-compliance is acceptable in this instance due to the unique location of the subject site with desirable rear views to Georges River (see figure below), and that any visual privacy impacts to neighbouring properties are minimised (i.e. installation of side privacy screens).

It is recommended that the proposed variation to Clause 4.21, Part B1 – Residential Development of the BDCP 2015 be supported in this instance.

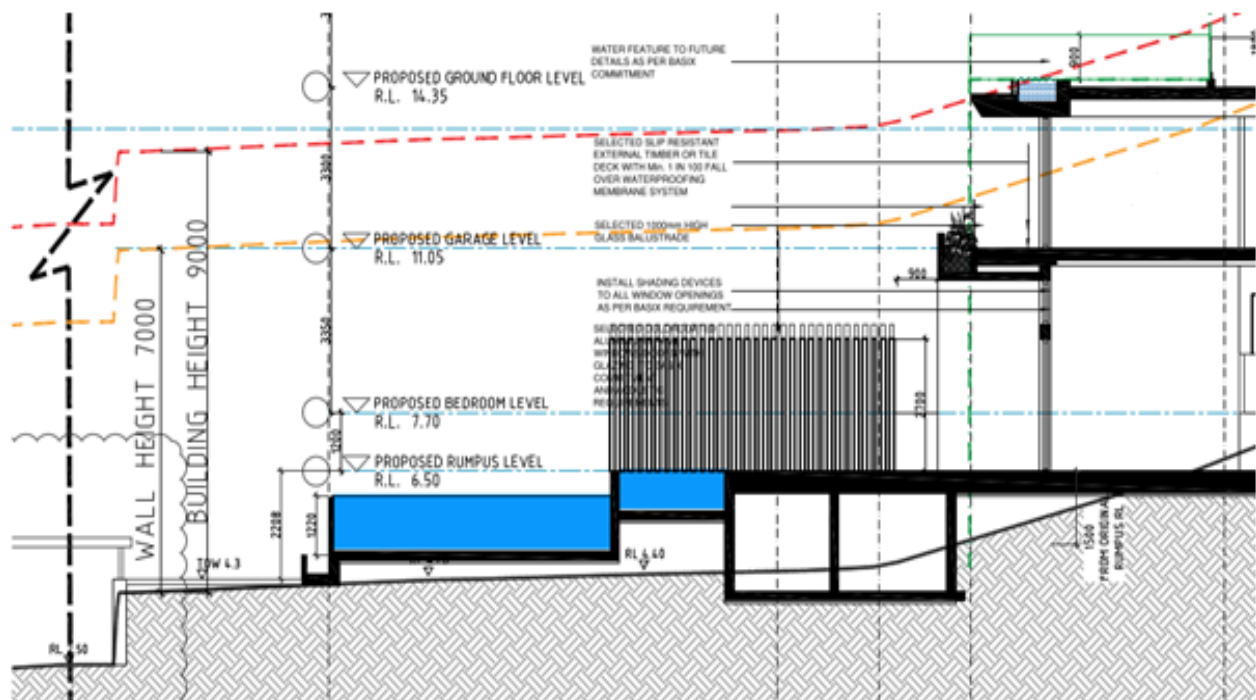


**Figure 8:** 3D perspective view from Georges River **Source:** Architectural Plans Revision C

### Swimming Pool Design

**14.14** Where Council allows swimming pools / spas within 30 metres of the high water mark of the Georges River and its tributaries:

- (a) the maximum height of the swimming pool / spa is 300mm measured above the ground level (existing); and
- (b) the swimming pool / spa fence must be an open style fence.



**Figure 9:** Pool Sections **Source:** Architectural Plans Revision E

As seen above, the proposed swimming pool and associated decking is measured more than 300mm above the existing natural ground level which therefore fails to comply with the development control.

The design is a result of the existing excavated ground level towards the rear of the site which does not reflect the “natural” extrapolated ground line prior to the historical excavation. The applicant has designed, throughout the site, visual transition through stepping of private open spaces, courtyards, internal floor levels, deck areas and pool coping in response to the existing slope of the site. It is considered that proposed raised pool design is a reasonable response to the site constraints of a sloping allotment.

Strict compliance with the numerical development control would require further excavation to the existing ground level, which would result in greater potential environmental impact. Additionally, an inground pool design would be inconsistent with the existing topography of the site and disrupt the visual transition that is achieved via the above ground pool design.

It is recommended that the proposed variation to Clause 14.14, Part B1 – Residential Development of the BDCP 2015 be supported in this instance.

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

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

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

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

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

The proposed development is not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development standards or controls occur, these are sufficiently justified. As such, it is considered that the impact of the proposed development on the locality is acceptable.

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

The site is considered suitable for the proposed development. The development results in an appropriate built form for the site, which is consistent with the existing and desired future character of the locality as reflected in BLEP 2015 and BDCP 2015.

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

No submissions were made in relation to the proposed development.

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

The proposed development would not contravene the public interest. The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by ensuring that any adverse impacts on the surrounding area and the environment are avoided. As the report has demonstrated, the development appropriately responds to the provisions and development standards of all applicable environmental planning instruments, in addition to the development controls contained in Bankstown Development Control Plan 2015.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, and has been assessed against the provisions contained in the applicable environmental planning instruments, development control plans, and policies.

The proposed development would result in an appropriate built form for the site which is consistent with the existing and likely future character of the locality, particular for similar sites along the southern side of Burbank Avenue. The applicable development standards and controls have been adequately addressed and no submissions were made in relation to the proposed development.

Approval of the development would not create undesirable precedent; rather it would remain consistent with the precedents Council has already set in relation to the height of building standards, particularly to similar developments on Burbank Avenue that have rear access to Georges River.





## CONDITIONS OF CONSENT

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

### 1. Approved Development.

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

Plan Number	Plan Name	Dated	Revision	Prepared By
1 of 4	Location Plan Subdivision Plan	25.5.2022	-	C Robinson and Associates PTY LTD
2 of 4	Ground Floor Subdivision Plan	25.5.2022	-	C Robinson and Associates PTY LTD
3 of 4	LG1 Floor Subdivision Plan	25.5.2022	-	C Robinson and Associates PTY LTD
4 of 4	LG2 Subdivision Plan	25.5.2022	-	C Robinson and Associates PTY LTD
DA01	Roof Plan	19.09.2022	E	Urbanistica
DA02	Ground Floor Plan	19.09.2022	E	Urbanistica
DA03	LG Floor Plan	19.09.2022	E	Urbanistica
DA04	LG2 Floor Plan	19.09.2022	E	Urbanistica
DA05	East and West Elevations	19.09.2022	E	Urbanistica
DA06	Northern Elevation	19.09.2022	E	Urbanistica
DA07	Southern Elevation	19.09.2022	E	Urbanistica
DA08	Section AA	19.09.2022	E	Urbanistica
DA09	Section BB and CC	19.09.2022	E	Urbanistica
FE01	Front Fence Elevation and Section	21.03.22	A	Urbanistica

- 1.2. All recommendations made in the acid sulfate soil management plan dated 2 September 2021 prepared by Geo Environmental Engineering - REPORT ID: G21063EH-R02F must be implemented for the duration of the works. All works must be carried out under the supervision of a suitably qualified environmental consultant. Any change made to the site that will or is likely to impact the recommendations of the acid sulfate soil management plan will require a further assessment and is to be provided to Council prior to the issue of a Construction Certificate.

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

- 2.1. Development Contributions of \$20,000.00 must be paid for this development before the issue of any construction certificate. The contributions are levied under Bankstown Development Contributions Plan 2019 and Section 7.11 of the Environmental Planning and Assessment Act 1979. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development. The development contribution will be allocated to the following purposes under the contributions plan:

Roads and Active Transport	<b>\$2,427.00</b>
Community Facilities	<b>\$1,488.00</b>
Open Space and Recreation	<b>\$12,570.00</b>
Public Domain Facilities	<b>\$3,336.00</b>
Plan Administration	<b>\$179.00</b>

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

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

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

NOTE: Development contribution amounts are non-refundable if you don't proceed with your development.

- 2.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate. Development contribution amounts are non-refundable if you do not proceed with your development.
- 2.3. 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 before the issue of a construction certificate. Payment can be made via the [Long Service Levy Portal](https://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.

- 2.4. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 – 'Parking Facilities - Off-Street Carparking' and Council's development control plan.
- 2.5. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Refer to [www.sydneywater.com.au/tapin](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 TAPIN™.

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

- 2.6. Swimming pool waste and overflow waters must be collected and directed to the sewer in accordance with the requirements of Sydney Water. Details must be submitted with the application for a construction certificate and be approved by the certifier before the issue of a construction certificate.
- 2.7. The development must be carried out in accordance with the commitments shown on the submitted BASIX Certificate. The BASIX commitments must be reflected in the construction certificate plans and specifications. Any proposed changes to the BASIX commitments after the construction certificate has been issued will require an updated BASIX Certificate.
- 2.8. Before the issue of the relevant construction certificate, the consent holder must submit the following written evidence of service provider requirements to the certifier:
- a letter of consent from the relevant electricity provider demonstrating that satisfactory arrangements can be made for the installation and supply of electricity; and
  - a response from the relevant water authority, as to whether the plans proposed to accompany the application for a construction certificate would affect any of the relevant water authority infrastructure, and whether further requirements need to be met; and
  - a letter of consent from the relevant telephone and broadband authority demonstrating that satisfactory arrangements can be made for the installation and supply of telephone and internet; and
  - other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

- 2.9. Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:
- a. Council's development control plan,
  - b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
  - c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

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

- 2.10. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the certifier before the issue of the construction certificate.
  - b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.
- 2.11. 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 medium duty combined VFC at the property boundary. The driveway level at the boundary shall not be lowered to maintain the existing boundary alignment.
  - b. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
  - c. Repair of any damage to the public road including the footway occurring during building works, and
  - d. 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. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the *Roads Act 1993* and/or Section 68 of the *Local Government Act 1993*, Council requires the consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the issue of any construction certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

**A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS**

**WORKS REQUIRING A 'WORKS PERMIT'**

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

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

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

- 2.13. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 2.14. 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.

Plan Name	Number	Date	Prepared By
C-3609-01	6	08-04-2022	Kozarovski& Partners
C-3609-02	6	08-04-2022	Kozarovski& Partners

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

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

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

- 2.17. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Bankstown DCP 2015 and must include the following features, notations and specifications:
- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
  - b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
  - c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), and
  - d. One 75ltr (minimum) major canopy tree shall be planted within the front setback to the development, and
  - e. Details of drainage and watering systems (if any).
- 2.18. The sum of the impervious areas associated with the car parking area, driveway(s) and pedestrian paths must not exceed 55% of the area between the dwelling(s) and the primary frontage.
- 2.19. 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.
- 2.20. Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties at number 39 and 49 Burbank Avenue, Picnic Point.

A photographic survey must be prepared of the adjoining properties at 39 and 49 Burbank Avenue, Picnic Point, detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the certifier and Canterbury Bankstown Council if Council is not the certifier, before the issue of the relevant construction certificate.

On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the principal certifier and Canterbury Bankstown Council if Council is not the principal certifier. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.

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

- 3.1. The demolition of all structures on the property must be undertaken in accordance with all the following:
- a. Written notice must be issued to adjoining residents a minimum of seven (7) days before the commencement of demolition advising of the commencement date,
  - b. Written notice must be issued to Council for inspection a minimum of (7) days before the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
  - c. Inspections being undertaken by Council including:
    - i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before demolition work commencing, and
    - ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
  - d. Payment of an inspection fee at Council's current rate must be paid before inspection. Council requires 48 hours' notice to carry out an inspection,
  - e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
  - f. All demolition work must be carried out in accordance with Australian Standard 2601 – 'The Demolition of Structures',
  - g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
  - h. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
  - i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,

- j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
- k. Adhere to the requirements stipulated in the approved Waste Management Plan, and
- l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

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

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

This Determination Notice does not authorise building work until a principal certifier has been appointed as the principal certifier for the work by (or with the approval of) the consent holder.

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

- a. the principal certifier has, no later than two (2) days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
- b. the principal certifier has, no later than two (2) days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,
- c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
- d. the consent holder, if not carrying out the work as an owner-builder, has:
  - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
  - ii. notified the principal certifier of the appointment, and
  - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
- e. the consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.

- 3.3. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the consent holder apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates, or telephone 13 20 92.

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

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

- 3.5. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.6. 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).
- 3.7. 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.
- 3.8. 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 Part 4 of 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.

- 3.9. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifier for the work, and



- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c. stating that unauthorised entry to the work site is prohibited.

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

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

3.10. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

3.11. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information —

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

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

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

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

4.1. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.

- 4.2. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 4.3. While building work is being carried out, the consent holder must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
- 4.4. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
  - a. 7.00 am and 5.00 pm on Monday to Saturday.
  - b. No construction is to be carried out at any time on a Sunday or a public holiday.

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

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

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

- 4.5. While building work is being carried out and where no noise and vibration management plan is approved under this consent, the consent holder is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- 4.6. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
  - a. All footings/ foundations
  - b. At other stages of construction – any marks that are required by the principal certifier.
- 4.7. The swimming pool is to be enclosed by a child resistant barrier comprising fences and gates designed, constructed, installed and maintained in accordance with Australian Standard AS 1926 – 'Swimming Pool Safety Part 1: Safety barriers for swimming pools'.
  - a. A notice containing the words
    - i. "Young children should be supervised when using this swimming pool" and
    - ii. "Pool gates must be kept closed at all times" and

- iii. "Keep articles, objects and structures at least 900mm clear of the pool fence at all times"  
together with a simple flow sequence containing details of resuscitation techniques must be displayed in a prominent position in the immediate vicinity of the pool.
  - b. Overflow and discharge pipes from the pool and filtration unit must be connected to the sewer.
- 4.8. The use of the pool / spa filter equipment must not give rise to offensive noise as defined in the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Noise Control) Regulation 2000*. All noise emitting equipment must be housed in an insulated enclosure or appropriately positioned so as to cause no nuisance to neighbours.
- 4.9. Access to a spa shall be restricted by means of a lockable child-safe cover.
- 4.10. All civil and hydraulic engineering works on site must be carried out in accordance with Council's 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.
- 4.11. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the principal certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.12. While building work is being carried out, the consent holder must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).
- 4.13. 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.

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

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

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

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

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

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

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

- 4.16. 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.

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

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

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

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

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

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

- h. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.
- 4.19. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the principal certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the consent holder and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 4.20. 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.
- 4.21. While vegetation removal, demolition and/or building work is being carried out, the consent holder must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The consent holder must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.
- 4.22. Where replacement boundary fencing is required to be installed, it must be 1.8 metres high unless otherwise shown on the approved plans or as stipulated within this Determination Notice. The materials and colours of the fence must be selected in consultation with the adjoining property owners unless the design of the fence and the type of material is specified to allow for overland flow. Fencing forward of the building line must not be greater than 1 metre in height. All costs related to fencing must be borne by the consent holder.
- 4.23. While site or building work is being carried out, the consent holder must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970 – ‘Protection of trees on development sites’ and any arborist’s report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.



- 4.24. All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS 4373 – ‘Pruning of amenity trees’ and Australian Standard AS 4970 – ‘Protection of trees on development sites’. Site specific conditions relating to tree protection shall take precedence over this requirement.
- 4.25. If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.
- 4.26. While building work is being carried out, the consent holder must ensure the clearance of vegetation to establish the APZ is confined within the marked APZ boundary, to the satisfaction of the principal certifier.
- 4.27. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The consent holder must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

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

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

- 5.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.2. Prior to the issue of an Occupation Certificate, the supervising environmental consultant must certify in writing to Council that the management of acid sulfate soil was undertaken in accordance with the plan.

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

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

- 5.6. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the principal certifier before the issue of an occupation certificate.
- 5.7. The swimming pool cannot be filled until Sydney Water has issued an appropriate permit and until the principal certifier has issued a final compliance certificate.
- 5.8. Adherence with each of following must have been met before the application for the occupation certificate:
- a. The *Swimming Pools Act 1992* and Regulations,
  - b. The swimming pool must have safety fencing installed in accordance with the requirements of Australian Standards AS 1926 – 'Fencing for Swimming Pools' and the *Swimming Pools Act 1992* and Regulations, and
  - c. AS 1926.3 – 'Water Recirculation and Filtration'.

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

- 5.9. The swimming pool / spa shall not be used until Council or the principal certifier has issued a final compliance certificate.

- 5.10. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.11. Before the issue of an occupation certificate, the consent holder must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

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

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

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

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

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

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

- 5.14. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373 – 'Pruning of amenity trees and the removal of all noxious weed species', have been completed in accordance with the approved plans and any relevant conditions of this consent.
- 5.15. The buildings / dwellings must be readily identified from the street with the allocated house numbers. An official "property numbering" letter is issued to the consent holder indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.

- 5.16. Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. All lighting must be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 5.17. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:
- After comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
  - Where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owners at No 39 and 49 Burbank Avenue, Picnic Point.

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

- 6.1. Before the issue of a subdivision certificate for the dual occupancy development the principal certifier must ensure that easements have been created where necessary over the relevant lots on the plan of subdivision under provisions of the *Conveyancing Act 1919* as follows:
- Easements to drain water (for inter-allotment drainage),
  - Easement for services (for utilities),
  - Right of carriageway (for internal driveway, vehicle manoeuvring), and
  - Easement for overhang (for eaves and gutters).

**Note:** a statement must be placed on the Section 88B Instrument that nominates Canterbury-Bankstown Council as the authority empowered to release, vary or modify the easements created.

- 6.2. The following information must be submitted to Council via the NSW Planning Portal with an application for a subdivision certificate (where necessary):
- A digital electronic version of the linen plan; and
  - A complete set of the administration sheets provided as a digital electronic version. Please note that owners' signatures are not required on the administration sheets for endorsement; and
  - An unsigned digital electronic version of the Section 88B Instrument (if applicable). Please note that owners' signatures are not required on the Section 88B Instrument for endorsement; and
  - A copy of this determination notice as well as any approved modifications for this determination notice; and

- e. Evidence that all conditions of consent relevant to the release of the subdivision certificate have been complied with; and
- f. A compliance certificate (Section 73 of the *Sydney Water Act 1994*) from Sydney Water; and
- g. Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity, telephone and broadband internet (see [PS-17-005](#)) are contained separately within each lot or within easements created to accommodate such services; and
- h. A report prepared by a registered surveyor verifying that the reduced level (RL) of the following conform with the approved plans:
  - i. The finished floor level at each slab level, and
  - ii. The height of any external wall; and
  - iii. The maximum level of roof structures / roof eaves overhangs; and
  - iv. The external wall and eave setbacks to the existing and proposed property boundaries; and
- i. A Work-As-Executed plan(s) of the constructed site stormwater management system and/or stormwater detention system, prepared by a registered surveyor. The plan(s) must be obtained before the release of the linen plans. The Work-As-Executed plan(s) must be shown on a copy of the approved stormwater drainage plan and must contain all information specified in the approved plans, Councils Standards, the relevant Australian Standards. The Work-As-Executed information shall be shown in red on a copy of the approved plans, signed off and dated by a registered surveyor. The information shall be submitted to the hydraulic engineer prior to certification of the as-built drainage system; and
- j. Certification from a professional engineer as defined in the National Construction Code (NCC) must be submitted to confirm that the constructed site stormwater management system and/or stormwater detention system as captured in the Work-As-Executed Plan(s) and from conducted site inspection(s) is in accordance with the approved plans, Councils Standards, Development Control Plan and the relevant Australian Standards; and
- k. A copy of the house numbering letter issued by Council, along with evidence that the numbering as issued has been complied with; and
- l. A copy of the work permit compliance certificate (where required); and
- m. A copy of the occupation certificate(s) for the building work.

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

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

## 7. Conditions of Use.

- 7.1. The nominated 'storage' area within the garage for each dwelling is at no time to be converted or used as a habitable area for the lifetime of the development.
- 7.2. The side courtyards on the lower ground floor shall not be enclosed by fencing, walls, screens, windows or the like, and shall remain open for the life of the development.
- 7.3. The swimming pool is to be enclosed by a child resistant barrier comprising fences and gates, maintained in accordance with Australian Standard 1926 – 'Swimming Pool Safety Part 1: Safety barriers for swimming pools'.

A notice containing the words:

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

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