



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

3 April 2023 - 6.00 PM

**Location: Council Chambers
Cnr Chapel Road and The Mall
Bankstown**

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

BUDJAR / CANTERBURY WARD

1 221-235 & 241-247A Homer St & 208 Wardell Rd, Earlwood

Demolition of existing structures and construction of a five storey shop top housing development with shops at ground floor, residential units at upper levels and two levels of basement carparking and subdivision of the site into two lots to dedicate land at the rear of the site to form an access laneway

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BUNYA / REVESBY WARD

2 65 Victor Avenue, Picnic Point

Construction of a two (2) storey centre-based child care facility for 60 children with basement parking and associated landscaping.

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Canterbury Bankstown Local Planning Panel - 03 April 2023

ITEM 1	221-235 & 241-247A Homer St & 208 Wardell Rd, Earlwood
	Demolition of existing structures and construction of a five storey shop top housing development with shops at ground floor, residential units at upper levels and two levels of basement carparking and subdivision of the site into two lots to dedicate land at the rear of the site to form an access laneway
FILE	DA-779/2020 – Budjar / Canterbury
ZONING	B2 Local Centre
DATE OF LODGEMENT	11 September 2020
APPLICANT	Loucas Architects
OWNERS	Spina Family Trust Maria Papacosta Anthony Vasiliades Constantine Vasiliades William Vasiliades
ESTIMATED VALUE	\$25,777,216.00
AUTHOR	Independent Town Planning Consultant

REPORT

This matter is reported to the Canterbury Bankstown Local Planning Panel in accordance with Schedule 2 of the Ministerial Direction “Local Planning Panel Directions” issued under section 9.1 of the *Environmental Planning and Assessment Act , 1979* (EP&A Act). The subject application proposes a “sensitive development” because it seeks consent for a development for which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and is four or more storeys in height.

Development Application No. DA-779/2020 proposes the demolition of existing structures and construction of a five-storey shop top housing development with shops at ground floor, residential units at upper levels and two levels of basement carparking. The application also proposes subdivision of the site into two lots to dedicate land at the rear of the site to form a publicly accessible laneway. The new building is to contain 14 x one-bedroom apartments, 33 x two-bedroom apartments and 15 x three-bedroom apartments and the ground floor commercial level is to contain five (5) commercial tenancies, one of which is a supermarket with retail floor area of 1,106m².

DA-779/2020 has been assessed against the relevant provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Canterbury Local Environmental Plan 2012, Canterbury Development Control Plan 2012 and the draft consolidated Canterbury Bankstown Local Environmental Plan.

The proposal is compliant with all applicable provisions of the Apartment Design Guide with one exception being a minor variation to the separation between private open space areas at Level 1 where some private courtyard spaces are separated across deep soil planting areas of communal open space.

The proposal is compliant with the applicable provisions of Canterbury Local Environmental Plan 2012 (CLEP 2012) with a minor variation to part of the top of the balustrade to the outer edge of the communal open space on Level 1.

The proposal is compliant with the applicable provisions of Canterbury Development Control Plan 2012 (CDCP 2012) with a minor (0.05m) variation to the setback of the uppermost levels to the street, the depth of one commercial tenancy (although the tenancy meets the required minimum dimensions overall) and the maximum street wall length.

There have been multiple requests for additional information and revision of plans and several meetings between the applicant and Council assessment staff.

The application was notified to adjoining and nearby property owners and by newspaper advertising on three (3) occasions relating to amended plans and documents.

The first notification was between 30 September 2020 and 20 October 2020. Five (5) submissions were received during the first notification period of which four (4) are unique submissions.

Amended Plans and documents were received in December 2021 and the application was re-notified between 26 January 2022 and 15 February 2022. Five (5) submissions were received during the second notification period.

Further amended plans were received during September 2022 and the application was re-notified from 26 October to 15 November 2022. One (1) submission was received during the third notification period.

Summary of issues raised in submissions that are relevant to the matters for consideration in Section 4.15 to the EP&A Act:

- Request to delete 5th storey.
- Height and bulk out of scale in the precinct.
- Visually imposing bulk and scale.
- Any approval should be in line with recent neighbouring development with regard to height and scale (examples of other developments at 211 Homer Street, 311 Homer Street, 19-21 William Street).
- Building height should transition to 2 storeys adjacent to land in Zone R2 to reduce overlooking and overshadowing.
- Does not maintain a 2 storey development when viewed from Wardell Road.
- Failure to consider the development impacts on the adjoining lower density properties located in the transitional R2 Low Density Residential zone.
- The proposed 5 storey shop top housing will appear as 6-7 storey given the sloping topography of the site.
- Not consistent with “village character” and desired future character.
- Overdevelopment of the site.
- Overlooking to adjoining residential properties in Wardell Road and Watkins Avenue.
- Overshadowing of nearby residential properties.
- Proposed setbacks are not compatible with the streetscape.
- Potential for noise generation from use of communal open space and request for enclosure of communal open space.
- Broader community consultation is encouraged due to scale and impact.
- Dilapidation report requested for potential impacts to adjoining assets and property.
- Contrary to public interest by permitting heavy rigid vehicles (HRVs) accessing residential streets such as Wardell Road.
- The acoustic report fails to satisfactorily address amenity impacts on the neighbouring residential developments with regard to operating hours of the proposed retail spaces, traffic, car parking, and noise generation from commercial uses (mechanical ventilation and plants, condenser, roller door, turntable, loading bay, retail space, warehouse operation, use of forklift, electrical substation, exhaust fumes from basement, fumes from shop ventilation etc) and residential uses (noise from communal open space). Consider whether acoustic attenuation of boundary fencing is required.
- Concerns for safety of rear yards and boundary fences. Potential for damage to fences by vehicle movements and accidents in rear lane.
- Rear yards adjoining new laneway are at a significantly lower level than rear lane surface. Consider safety barriers necessary along the laneway.
- The proposed public laneway fails to minimise traffic impacts on Wardell Road.
- Do not support public laneway connection to Baker Lane creating a “rat run” unsuitable in a residential neighbourhood.
- Traffic impacts are not accurately reported because traffic surveys were conducted during COVID lockdown conditions.
- Conflict with the co-location of vehicular access to basement and truck turntable/loading bay. Impact to the amenity and safety of nearby residential properties with potential for queuing of trucks and other vehicles.
- Lack of information on potential for traffic queuing and intersection movement delays particularly at the intersection of Wardell Avenue and the new public laneway.
- Wardell Road currently has a lack of on-street parking availability and vehicles blocking driveways. Insufficient onsite parking proposed.

- In accordance with clause 7 of SEPP 55, before determining an application that would involve a change of use for residential purposes, the consent authority must consider a report specifying the findings of a PSI and the suitability of such site for the new use. This needs to be considered at DA stage. Preliminary Site Investigation is inconclusive in terms of suitability of 221-235 Homer Street and 208 Wardell Road for residential use.
- The proposal should be more in keeping with the NSW LEC decision of 2 February 2006 regarding a different application.

POLICY IMPACT

The matter being reported has no direct policy implications.

FINANCIAL IMPACT

The matter being reported has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-779/2020 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 221-235 and 241-247A Homer Street and 208 Wardell Road, Earlwood and consists of four allotments identified as Lot 101 DP 747279, Lots 10 and 12 DP 10801 and Lot 1 DP 123981. The site is an irregular shape with a total area of 3,645m². The site is a corner allotment and has a frontage of 81.39m to Homer Street and a secondary frontage of 73.46m to Wardell Road.

The entire site is zoned B2 Local Centre pursuant to the *Canterbury Local Environmental Plan 2012* and is located within the Earlwood Local Centre (see Figure 2).

The existing development on the site is as follows:

- No.208 Wardell Road - a single storey, three-bedroom dwelling house (see Figure 5)
- No.241-247A Homer Street – a vacant site (formerly a service station which has been subject to site remediation and validation) (see Figure 3)
- No.221-235 Homer Street – two storey brick buildings with ground floor commercial uses and first floor commercial office spaces (see Figure 4).

The surrounding land uses include commercial/shop-top housing development along Homer Street and a five storey shop top mixed use building with basement at 205 Homer Street. To the rear of the site (along Wardell Road) are residential developments consisting of one and two storey dwelling houses.

The context of the subject site is illustrated in the aerial photo in Figure 1.

The site is within walking distance of bus stops on Homer Street for routes 423 and L23 which are connections to the Sydney CBD and local and regional centres and railway stations respectively. Bus services are accessible and operate 7 days a week. Bardwell Park railway station is approximately 1km walking distance south east of the site. Wolli Creek Regional Park and riparian corridor is 800m south of the site and includes a variety of active and passive public recreational spaces. The site is part of a strip of commercial premises along Homer Street which includes a diverse range of local scale retail, service and commercial premises.



Figure 1: Aerial of subject sites in blue. **Source:** Nearmap 2022

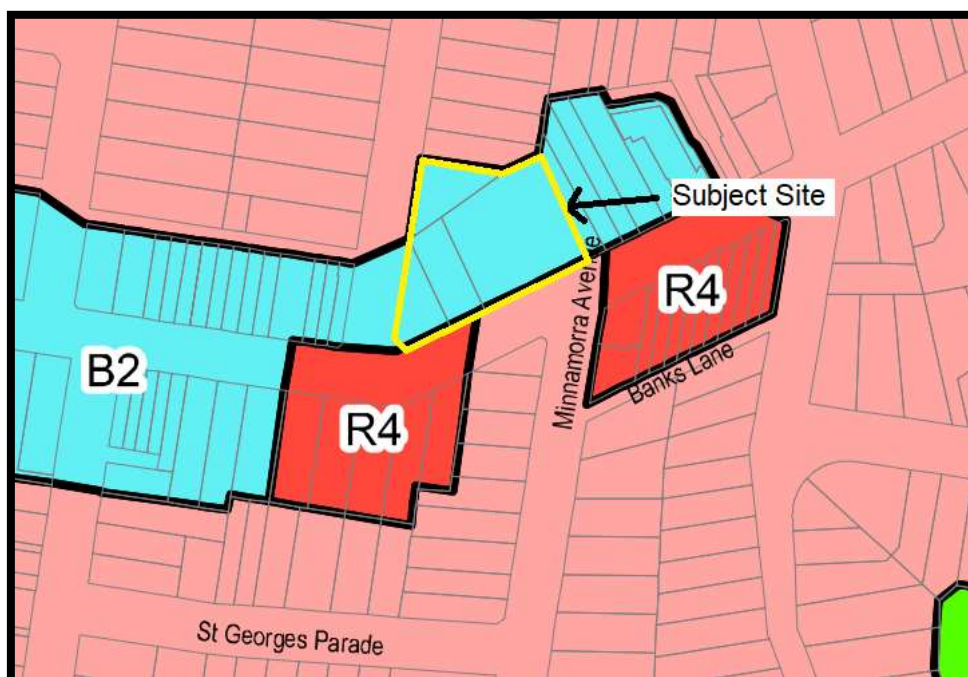


Figure 2 Zoning Map Excerpt CLEP 2012



Figure 3 View of 241-247A Homer Street



Figure 4 View of 221-225 Homer Street from roadway



Figure 5 View of 208 Wardell Road

PROPOSED DEVELOPMENT

The Development Application proposes the following:

- Demolition of existing structures,
- Consolidation of the four (4) existing lots into one (1) allotment,
- Construction of a five storey shop top housing development with commercial premises on the ground floor and 62 residential units on the upper levels,
- Two levels of basement carparking for commercial and residential users,
- Communal open spaces at ground level and Level 2,
- Loading bay and several waste storage rooms, and
- Subdivision and dedication of land to Council for rear laneway and construction of laneway.



Figure 6 Primary elevation of proposed building addressing Homer Street

SECTION 4.15 ASSESSMENT

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

Statutory Considerations

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

- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy 2004 (Building Sustainability Index: BASIX)
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Canterbury Local Environmental Plan 2012 (CLEP 2012)
- Canterbury Development Local Infrastructure Contributions Plan 2022 (Contributions Plan 2022)
- Draft Consolidated Canterbury Bankstown Local Environmental Plan.
- Canterbury Development Control Plan 2012 (CDCP 2012)

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

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

In accordance with SEPP BASIX, 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 the objectives of the SEPP. The BASIX Certificate requirements have been incorporated into standard conditions of consent and the certificate is listed with the approved documents.

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)

Residential apartment development is defined under SEPP 65 as development for the purpose of a residential flat building, shop top housing and mixed use developments with a residential accommodation component. The development must consist of the erection of a new building, the conversion of an existing building or the substantial redevelopment or refurbishment of an existing building. The building must also be at least 3 or more storeys and contain at least 4 or more dwellings.

SEPP 65 aims to improve the design quality of residential apartment development across NSW and includes the Apartment Design Guide (ADG) for assessing 'good design'. Clause 50(1A) of the Environmental Planning and Assessment Regulation 2021 requires the submission of a design verification statement from a qualified designer (registered architect) at lodgement of the development application. The Design Verification Statement addresses the design quality principles contained in SEPP 65 and must demonstrate how the objectives in Parts 3 and 4 of the ADG have been achieved. A Design Verification Statement dated 22 December 2021 prepared by Jim Apostolou of Loucas Architects Registration No.7490 has been submitted with the development application and reviewed by Council's Urban Design Assessment Officer. The ways in which the proposal meets the Design Principles are identified as follows:

Principle 1: Context and Neighbourhood Character

The site is part of the existing commercial strip of Earlwood Local Centre located along Homer Street. The Earlwood Local Centre is expected to undergo transition in density and character from small, narrow lots with one and two storey buildings to amalgamated sites with mixed use buildings of four and five storeys as prescribed by the planning provisions.

The rear of the site adjoins residential zoned land and the Development Control Plan (DCP) Section D.7.4 identifies a future public laneway (connecting Baker's Lane with Wardell Rd) to separate the commercial zoned land from the residential zoned land.

The proposal features a consolidated street wall with active frontages created by residential lobbies and commercial tenancies fronting both Homer Street and Wardell Road as required by the Structure Plan in Section D.7.4 to the DCP.

The site slopes down from the Homer Street frontage and the proposed building height is stepped to match the slope as well as match the transition from an 18m height control (applying to those properties on Homer St) to an 8.5m height control (applying to the Wardell Rd property).

The location of the vehicle access / egress points and loading bay match the future intention of the public laneway to facilitate "back of house" activities.

The layout and location of communal open space allows for greater separation distances from the adjoining residential zoned land and optimises solar penetration to apartments and open space areas.

Principle 2: Built Form and Scale

The development is mostly compliant with the height of buildings control. A minor variation is sought to the outer edge of the wall treatment to the Level 2 communal open space (see the Clause 4.6 variation request analysis).

The building height transitions throughout the site. The edge of the building adjacent to the laneway is two storeys. The façade to Wardell Road transitions from two

storeys to 5 storeys at the corner with Homer Street. The Homer Street façade is five storeys. The topmost two storeys are recessed from the street boundaries.

The built form is consistent with the Structure Plan in Section D.7.4 to the DCP and the separation controls in the ADG. The built form and scale are considered acceptable by Council's Urban Design Assessment Officer. In particular, the façade presentation to the intersection of Homer Street and Wardell Road has been amended in response to the design advice provided by Council's Urban Design Assessment Officer.

The bulk, scale and proportions relative to site boundaries are similar to the recently completed mixed use development east of the site at No.205-209 Homer Street.

The ground floor street activation provides multiple opportunities for pedestrian access and egress to the building with three (3) residential lobbies and five (5) commercial tenancies, one of which is a key anchor tenancy supermarket.

Continuous awnings and street tree plantings are proposed to both street frontages to improve street aesthetics and pedestrian amenity and accessibility.

The building facades are well articulated including raised planter beds to some building edges and a variety of balconies, recessed spaces and window designs.

Principle 3: Density

There is no floor space ratio applicable to the site. Density is controlled by building height, setbacks and separation and the integration of communal and private open spaces. The density of the development is satisfactory with appropriate separation distances, setbacks and building height. Sufficient space is allocated for communal and private open space areas as well as for basement parking and ancillary facilities including loading bays, waste storage and waste management spaces.

The area for the construction and dedication of the public laneway is compliant with Council's requirements for a 7.7m wide road reserve width and a minimum 6.5m wide carriageway width.

Principle 4: Sustainability

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into the proposal. A 21kW solar energy system is proposed to be installed on the rooftop.

45 apartments (73%) receive the required solar access as per 4A-1, Design Criteria 1 of the ADG.

40 apartments (63%) meet the natural cross ventilation requirements of Objective 4B-3 Design Criteria 1 to ADG. Some top floor apartments rely on "pop up" roof features to support cross ventilation.

7 apartments (11%) receive no direct sunlight in midwinter.

These measures meet the requirements of the ADG.

The location is within walking distance of public transport options with multiple bus routes and train transport available 7 days a week.

Building materials have been selected for durability and low maintenance as well as being appropriate for the microclimatic conditions.

Landscaping is well integrated with planting opportunities created throughout the structure and street trees in the footpath reserve.

Adequate provisions have been made for the management of stormwater and improvements to stormwater quality.

Principle 5: Landscape

The design quality principle states that good landscaping should enhance a positive image and contextual fit and achieve well-designed developments by contributing to the landscape character of the streetscape and neighbourhood.

Further to the above, the design quality principle states that good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.

The communal open spaces satisfactorily achieve these requirements for a mixed use development in a commercial centre. The common open space areas have a variety of spaces for movement, relaxation, an outdoor kitchen and eating areas, seating, small shade trees, grassed and paved areas and a communal vegetable garden.

Limited on-structure edge planters will support landscaping that will be visible from the street frontages.

The Landscape Plan indicates the communal open space areas are capable of supporting shrubs and small canopy tree planting and ground covers with soil depths between 600mm and 1,000mm.

The proposal meets the minimum communal open space requirements of Objective 3D-1, Design Criteria 1 of the ADG. Based on a site area of 3645m², the proposal requires 911.25m² of communal open space (i.e. 25% of the site area). The proposal provides a total communal open space area of 934m².

Canopy street trees are proposed to both street frontages and conditions are recommended to ensure species selection is compatible with the awnings proposed to extend over both public footpath areas.

Principle 6: Amenity

Separation distances internal to the site and from site boundaries are compliant with the ADG (see below compliance tables). The orientation of windows and private open spaces and changes in levels assists in achieving privacy and amenity within the site. Fin walls and fixed screening are included within the site to further enhance visual and acoustic privacy.

The acoustic report submitted with the application recommends the outer edges of the communal open space areas are defined by either 1.8m high gap-free solid fencing or planter beds a minimum 600mm high with gap-free Perspex fencing above to protect the aural and visual privacy for residential properties on the opposite side of the new laneway. This treatment is included in conditions of development consent and shown on the architectural plans.

The aspect of the site is such that shadow cast by the new building will not impact neighbouring residential properties. Shadow will be cast onto the adjoining roadways in the mornings through to mid-afternoon and the neighbouring commercial building to the east in the late afternoon.

Secured storage areas are included in Basement Level 2 and each apartment has internal storage spaces.

Service areas for commercial premises include a shared loading dock which will be subject to a Plan of Management.

There are multiple secured access points to the apartments with three separate circulation cores linked to three pedestrian lobbies with street access. Each access core also has a link to the primary communal open space.

An Accessibility Report has been submitted with the application that verifies all access points from the street frontages – including access to commercial premises – can comply with universal access requirements. Conditions are recommended for design details to be confirmed prior to the issue of a Construction Certificate.

The apartment layouts are generally compliant with the ADG and BCA in terms of internal layout, room dimensions and natural light. All apartments are provided with sufficient private open space areas directly accessible to the internal open plan living spaces.

All apartments have an outlook either to the adjoining streets or communal open space or both.

Commercial and residential spaces are generally separated with the exception of storage rooms for waste and recyclables. Waste and recyclable storage and servicing will be the responsibility of a Building Manager appointed by a strata manager. Waste Management will be conducted in accordance with the Operational Waste Management Plan referenced in the recommended conditions of consent.

Principle 7: Safety

Access and egress points to the building will be secured. Pedestrian entry points have clear sight lines between the street and lift openings and will be accessed by secured keypad, card and intercom systems. The basement will have an after-hours roller shutter and intercom/car activation system. Basement Level 2 is for the exclusive use of residents and staff and will be separated from Basement Level 1 with a boom-gate. The loading bay is secured with roller doors when not in use.

Surveillance to the street frontages is achieved through active frontages to the commercial tenancies and from living room windows and private open space areas at upper floor levels with lines of sight to the street.

The applicant has considered Crime Prevention through Environmental Design (CPTED) principles as outlined in CDCP 2012 in the design of the project.

Under awning lighting will be provided to both street frontages and lighting to the laneway will comply with Australian Standards AS/NZS 1158.3.1:2005 Lighting for Roads and Public Spaces.

There are clear lines of sight throughout the basement and the basement is to be provided with lighting that complies with comply with Australian Standards AS/NZS 1158.3.1:2005.

Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates a mix of apartment sizes and layouts and also includes adaptable and liveable units which accommodates for diversity, affordability and housing choice.

The proposed development provides 14 x 1 bedroom apartments, 33 x 2 bedroom apartments, 15 x 3 bedroom units. In addition, 7 units are adaptable which meets the minimum 10% requirement under the Canterbury Development Control Plan 2012. The development also proposes 6 liveable units which meets the Housing Guidelines.

The first floor level communal open space is readily accessible via the three common circulation cores and allows social interaction opportunities for all residents. The Level 2 communal open space is accessible via a short stair and lift and corridor link to the first floor level communal open space and is of sufficient dimensions to support a range of passive activities mainly outdoor seating, turfed space and a common vegetable garden.

Principle 9: Aesthetics

The inclusion of pattern, texture, form, colour, articulation of the external and internal façades and compliance with the relevant built form standards are appropriate for the scale of the building and the mix of land uses.

Council's Urban Design Assessment Officer is satisfied the development will be compatible with the desired future character of the locality and will enhance the

existing streetscapes. The 4.95m setback to Homer Street and predominantly 2.5m setback to Wardell Road for the top two storeys is consistent with CDCP 2012.

Conditions have been recommended for detailed design of the continuous awnings over the public footpath to both street frontages to ensure compatibility with proposed street trees and to ensure a minimum clearance from the pavement surface of 3.4 to 4.4m to accommodate for the sloping footpath grade in Wardell Road.

Council's Urban Design Assessment Officer did seek deep soil planting and a pedestrian-friendly laneway design. However, the site is within a mixed use locality with commercial ground floor activation to two street frontages and a rear laneway required for access to the basement and loading dock. Deep soil planting is considered inappropriate for the site setting and would compromise the function of the laneway to facilitate "back of house" functions for commercial premises. Street tree planting is considered an appropriate landscape treatment for both street frontages in this case, but not for the laneway. Soil depths throughout the common open space areas are sufficient to support a variety of plantings including small canopy trees.

Council's Urban Design Assessment Officer also sought design changes for the laneway to be activated with pedestrian access. However, Council's Infrastructure Services require a minimum road reserve dedication of 7.7m with a minimum carriageway width kerb to kerb of 6.5m for the rear lane. These dimensions do not allow for a safe, grade-separated pedestrian footpath within the laneway. Furthermore, the laneway is intended to be used for waste servicing trucks and other service and vehicle access ancillary to the commercial premises fronting Homer Street which is not conducive to a pedestrian environment. Therefore, no pedestrian access points or pedestrian pathways are sought for the rear lane.

Overall the Design Verification Statement and the proposal meets the Design Quality Principles in the ADG with consideration to the specific conditions and context of the site and its setting.

Apartment Design Guide

Further to the design quality principles discussed above, the proposal has been considered against the provisions of the Apartment Design Guide (ADG) in accordance with Clause 28 (2) (c) of SEPP 65.

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
3C Public Domain Interface	<ul style="list-style-type: none"> - Avoid long, high blank walls and fences - Direct access from the street to ground floor apartments and windows overlooking the street improve safety and social interaction; - Key components to consider when designing the interface include entries, private terraces or balconies, fence and walls, changes in level, services location and planting. - Safety considerations (real or perceived) and consideration of social interaction opportunities when viewed from the public domain. - Terraces, balconies and courtyard apartments to have direct street level entry where possible; - Changes in levels between ground floor and terraces to balance passive surveillance and privacy; 	<p>Both street frontages at ground level are well activated with residential lobbies and commercial premises. The ground floor external wall to the laneway is blank to provide sound attenuation and privacy from the back of house functions of the supermarket. Conditions require design treatment of the wall.</p> <p>Laneway fencing is a 2.4m high Hebel panel fence with acoustic lining to provide a robust and noise-attenuating treatment to the boundary between the laneway and adjoining residential properties. This is an appropriate treatment for the laneway boundary.</p> <p>There are no ground floor apartments. However, all residential levels have apartments with a variety of windows and private balcony spaces overlooking the adjoining streets for natural and passive surveillance.</p>	Yes

Section	Design Criteria	Proposed	Complies
3C Public Domain Interface continued ...		The finished floor levels of the commercial tenancies and the residential lobbies are well matched and conditions are recommended to demonstrate accessibility prior to the issue of a Construction Certificate.	
		All lobbies and commercial tenancies have clear glazed facades to the street to achieve surveillance. Conditions are recommended to ensure all glazing is clear and provides direct sight lines to the street and footpath.	
	- Provide seating at building entries, letter boxes and private courtyards adjacent the street.	Letterboxes are visible from the street.	
	- Multiple building entrances to be clearly defined through architectural detailing, changes in materials, plant species and colours;	Lobbies and commercial entries are clearly identified with architectural detail and materials selection.	
	- Concealment opportunities minimized.	Laneway surveillance will need to rely on CCTV and conditions of consent are recommended to achieve this. Conditions are recommended for fire egress doors opening to the footpath to be well lit after daylight hours.	
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Section	Design Criteria	Proposed	Complies
3C Public Domain Interface	-	<p>The substation has been sited to the rear of the site within a recessed area of the building in the north-east corner. The substation design meets the specifications of the service provider. Conditions are recommended that the substation area be provided with low level lighting after daylight hours.</p> <p>Pedestrian entrances to residential lobbies are accessed via Homer Street and Wardell Road. The lobby areas vary from 2.5m-6.2m in width and are suitable for letterboxes and general circulation.</p>	Yes
3D Communal and Public Open Space	<p>Communal open space has a minimum area equal to 25% of the site. Total site area is 3645m², requiring a minimum 911.25m²)</p> <p>Min 3m dimension and larger developments should consider greater dimensions</p>	<p>741m² of communal open space is provided on the first floor (podium) and 193m² on the second floor.</p> <p>A total of 934m² (25%) of communal open space is provided.</p>	Yes

Section	Design Criteria	Proposed	Complies	
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space (COS) for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Achieved. Both Communal open space (COS) areas face north and the solar access diagrams numbered A-051-A-054 indicate that the COS's will achieve a minimum of 2 hours of direct sunlight on the 21 June to the principal usable part of the communal open space	Yes	
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:		Yes	
	Site Area	Minimum Dimensions		Deep Soil Zone (% of site area)
	Less than 650m ²	-		7%
	650m ² - 1,500m ²	3m		
	Greater than 1,500m ²	6m		
	Greater than 1,500m ² with significant existing tree cover	6m		
	Required: 3645m ² /7% = <u>255.15m²</u> Achieving the design criteria may not be possible on some sites including where: • the location and building			The site is within Earlwood Village Centre and the ground floor level achieves 100% site coverage with commercial development. Therefore no deep soil planting is required at ground floor level as per the ADG. The rear laneway to be dedicated to Council is 7.7m wide and not suited to planting. Street trees to both frontages are considered a suitable alternative to ground level deep soil planting. Alternative methods of planting on the building structure are proposed as indicated in the Landscape Concept Plan. Deep soil areas suitable to support shrubs and small canopy trees are proposed within the communal open space areas and

Section	Design Criteria	Proposed	Complies									
	<p>typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)</p> <p>• there is 100% site coverage or non-residential uses at ground floor level Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure</p>	<p>some edge planting on the Level 3 private open space areas. This is consistent with the Design Guidance for the deep soil controls of the ADG for mixed use developments in commercial centres.</p>										
3F Visual Privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building Height</th><th>Habitable Rooms & Balconies</th><th>Non-habitable Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table> <p>Note: An increased 3m building separation is required given the land to the north of the site is a different zone (i.e. R2 Low Density Residential) that permits lower density residential.</p>	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	<p><u>Building Separation to rear</u></p> <p>Level 1 Min 7.8m (to outer edge of planter box) Min 9m to private open space</p> <p>Level 2 Min 14.130m to private open space Min 10.7m to communal open space</p> <p>Level 3 Minimum 14.130m to private open space</p> <p>Level 4 Minimum 14.130m to private open space</p>	<p>Complies.</p> <p>All separations to northern boundary meet the objective of 3F-2 of the ADG Planter boxes and acoustic walls enhance visual and acoustic privacy at Levels 1 and 2.</p>
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										

Section	Design Criteria	Proposed	Complies
		<p><u>Separation internal to site</u></p> <p>Level 1 Minimum 9m between private open space areas. (Required 12m)</p> <p>Level 2 Minimum 12.09m between bedroom windows</p> <p>Level 3 Minimum 12.09m between bedroom windows</p> <p>Level 4 Minimum 13.479m</p>	<p>Does not comply. Visual and aural privacy addressed with window size and orientation, fixed screens, changes in level and dense planting within the communal open space between the private open space areas.</p> <p>Complies. Visual and aural privacy addressed with window orientation and narrow window dimension. All windows are offset and none directly face each other.</p> <p>Complies. Visual and aural privacy addressed with window orientation and narrow window dimension. All windows are offset and none directly face each other.</p> <p>Complies. Visual and aural privacy addressed with window orientation and narrow window dimension. All windows are offset and none directly face each other.</p>

Section	Design Criteria	Proposed	Complies
3J Bicycle and Car Parking	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP 2012	Refer to assessment under Part B1 of the CDCP 2012	Yes
	The car parking needs for a development must be provided off street.	Car parking is provided in Basement Levels 1 and 2	Yes
3G Pedestrian Access and Entries	<p>Multiples entries should be provided to activate the street edge.</p> <p>Entry locations relate to the street and subdivision pattern / existing pedestrian network.</p> <p>Building entries should be clearly distinguishable from private entries.</p> <p>Building access areas (lift lobbies, stairwells and hallways) should be clearly visible from public domain and communal spaces.</p> <p>Minimise ground floor and underground level changes along pathways and entries. Steps and ramps integrated into design.</p> <p>Provide way finding maps for large developments. Electronic access and audio/video intercoms required.</p> <p>Provide pedestrian links to streets and destinations with clear sight lines.</p>	<p>The proposal provides multiple entries with three (3) residential lobby areas and five (5) access points to commercial tenancies.</p> <p>All entries are oriented to the street frontages and clearly distinguishable in the facades.</p> <p>The residential lobbies and lift access are clearly visible from the public domain and communal spaces with glazing to the external wall.</p> <p>Steps and ramps accommodate for level changes within the building footprint.</p> <p>Intercoms and security will be fitted to lobbies.</p>	Yes
Part 4 Designing the Building			
4A Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	<p>73% of apartments received compliant solar access.</p> <p>11% of apartments receive no direct</p>	Yes

Section	Design Criteria	Proposed	Complies
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	sunlight in midwinter.	
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	63% of apartments can be naturally cross ventilated with apartments on the fourth floor including pop up roof features to enhance cross ventilation. Top floor apartments are not solely reliant on pop up roof vents for cross ventilation.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Complies. Cross through apartments do not exceed 18m depth	Yes

Section	Design Criteria	Proposed	Complies	
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Residential: Floor to floor heights of 3.1m proposed, which can achieve a 2.7m habitable ceiling space Commercial: Supermarket proposes a ceiling height of 5.1m and the other commercial/retail spaces propose a ceiling height of 4.15m (minimum). These ceiling heights allow and promote for flexible uses in the future.	Yes	
	Minimum Ceiling Height for Apartment and Mixed Use Buildings			
	Habitable rooms			2.7m
	Non-habitable			2.4m
	For 2 storey apartments			2.7m main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
	Attic Space			1.8m at edge of room with a 30 degree minimum ceiling slope
	If located in mixed use areas			3.3m for ground & first floor to promote future flexibility of use
	These minimums do not preclude higher ceilings if desired.			

Section	Design Criteria	Proposed	Complies										
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:	Minimum one bedroom apartment size = 50m ²	Yes										
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Minimum two bedroom apartment size = 75m ²	Yes
	Apartment Type	Minimum Internal Area											
	Studio	35m ²											
	1 bedroom	50m ²											
	2 bedroom	70m ²											
	3 bedroom	90m ²											
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.	Minimum three bedroom apartment size = 106m ²	Yes										
	A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.												
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Complies	Yes										
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Complies	Yes											
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Complies	Yes											
Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Complies	Yes											
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments	Complies	Yes											
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Complies	Yes											

Section	Design Criteria	Proposed	Complies															
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	All private open space areas meet or exceed the minimum area and dimensions	Yes															
	<table><tr><th>Dwellin g type</th><th>Minimu m Area</th><th>Minimu m Depth</th></tr><tr><td>Studio apartm ents</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroo m apartm ents</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroo m apartm ents</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroo m apartm ents</td><td>12m²</td><td>2.4m</td></tr></table>			Dwellin g type	Minimu m Area	Minimu m Depth	Studio apartm ents	4m ²	-	1 bedroo m apartm ents	8m ²	2m	2 bedroo m apartm ents	10m ²	2m	3+ bedroo m apartm ents	12m ²	2.4m
	Dwellin g type			Minimu m Area	Minimu m Depth													
	Studio apartm ents			4m ²	-													
	1 bedroo m apartm ents			8m ²	2m													
	2 bedroo m apartm ents	10m ²	2m															
	3+ bedroo m apartm ents	12m ²	2.4m															
The minimum balcony depth to be counted as contributing to the balcony area is 1m.																		
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.	No apartments at ground level	N/A																
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	The proposal does not exceed eight apartments of each circulation core on a single level	Yes															

Section	Design Criteria	Proposed	Complies										
4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	The storage areas have been shown on the plans and the required minimum storage size for the relevant dwelling type has been met with a combination of storage in the basement and within each apartment	Yes										
	<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>			Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³
	Dwelling type			Storage size volume									
	Studio apartments			4m ³									
	1 bedroom apartments			6m ³									
	2 bedroom apartments			8m ³									
	3+ bedroom apartments			10m ³									
At least 50% of the required storage is to be located within the apartment.													

Section	Design Criteria	Proposed	Complies
4H Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Rooms with similar noise requirements are grouped together</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p>The Acoustic Report prepared by Acoustic Noise and Vibration Solutions dated 30 November 2022 provides specific recommendations for:</p> <ul style="list-style-type: none"> - construction methods and materials, - operational and management measures (which are included in Plans of Management), - acoustic treatments to the edge of communal open space areas and - recommendations for installation and maintenance of plant and equipment to address all potential noise sources and achieve noise and amenity criteria within the development and for neighbouring properties. 	Yes – subject to recommended conditions of consent.

Section	Design Criteria	Proposed	Complies
4S Mixed Use	<p>Mixed use developments positively contribute to the public domain. Design solutions may include:</p> <ul style="list-style-type: none"> • development addresses the street • active frontages are provided • avoiding blank walls at the ground level <p>Residential circulation areas should be clearly defined. Design solutions may include:</p> <ul style="list-style-type: none"> • residential entries are separated from commercial entries and directly accessible from the street • commercial service areas are separated from residential components • residential car parking and communal facilities are separated or secured • security at entries and safe pedestrian routes are provided • concealment opportunities are avoided <p>Landscaped communal open space should be provided at and commercial podium or roof levels</p>	<p>The development addresses and activates both street frontages.</p> <p>Blank walls at ground level are limited to the loading dock when roller shutters are closed for security and amenity purposes and the ground floor level adjacent to the new laneway for the protection and sound insulation of plant and equipment ancillary to the supermarket storage areas and mechanical plant.</p> <p>Common circulation areas in residential buildings are clearly defined and legible.</p> <p>Commercial areas are physically separated from residential areas.</p> <p>Residential and staff parking is contained in Basement Level 2 and separated from the remainder of the basement with a boom gate.</p> <p>All entries and exits from the building and basement have appropriate security and access controls.</p> <p>Landscaped communal open space is available to all residents on Level 1 and Level 2.</p>	Yes

As identified in the above table, the proposed development complies with all applicable ADG design criteria.

State Environmental Planning Policy (Planning Systems) 2021**Chapter 2 – State and regional development**

Pursuant to Clause 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, the proposed development has a capital investment value of \$23.4 million. It is not identified as regionally significant development. Accordingly, the Canterbury Bankstown Local Planning Panel is the consent authority for this application.

State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 4 – Remediation of Land**

Clause 4.6 of *State Environmental Planning Policy (Resilience and Hazards) 2021* requires the consent authority to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, the consent authority must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, the consent authority must be satisfied that the land will be remediated before the land is used for the proposed purpose.

A review of the history of the site shows that the part of the subject site has been used for commercial purposes including a service station. The former service station site was remediated following that use ceasing in 2002.

The applicant submitted a Preliminary Site Investigation report prepared by WITT Consulting with the development application. Council's Environmental Health Officer has reviewed the documents and is satisfied the site can be made suitable for the mixed use development subject to the imposition of suitable conditions of consent. Accordingly, the submitted reports demonstrate that the site is suitable for the purpose of the proposed development in accordance with SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021**Chapter 2 – Infrastructure****Clause 2.48 – Determination of development applications – other development**

The proposed development involves works within 5m of overhead power lines and requires the installation of a new substation. Accordingly, a referral to the electricity supply authority for the area was required. Ausgrid has assessed the plans lodged and advise that it consents to the proposed development subject to conditions relating to minimum clearances to Ausgrid's Infrastructure. The full set of conditions contained in Ausgrid's advice is included in the recommended conditions of consent at Attachment 'B' to this report.

Clause 2.119 – Development with frontage to classified road

As the subject site has a frontage to a regional classified road (Homer Street) under the care and control of Council, this clause requires Council to be satisfied in respect of the following matters:

- that vehicular access to the land is provided by a road other than the regional road where practical
- the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, and
- the development (if a type that is sensitive to traffic noise or vehicle emissions) is appropriately located and designed or includes measures to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Vehicle access is primarily via the new public laneway to be constructed and dedicated as part of this development. Some access and egress of vehicles direct to Wardell Road is also proposed. There is no direct vehicle access and egress to Homer Street.

The proposal will not impact the safety and efficiency of Homer Street.

The Acoustic Report prepared by Acoustic Noise and Vibration Solutions dated October 7 2022 submitted with the application includes methods and materials for construction to ensure that the internal amenity of the proposed apartments is not detrimentally impacted by traffic noise from Homer Street.

Apartments are located at first floor level and above and are suitably separated from the trafficable surface of Homer Street so as not to be unreasonably impacted by vehicle emissions.

The application was referred to Transport for New South Wales (TfNSW) because Homer Street is a classified road with controlled access. Concurrence was provided. The terms of approval, including conditions, have been incorporated into the recommended conditions of consent.

The proposed development is consistent with the provisions of SEPP (Transport and Infrastructure) 2021.

Canterbury Local Environmental Plan 2012

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

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.7 – Demolition requires development consent

Clause 4.3 – Height of Buildings

Clause 4.6 – Exceptions to development standards

Clause 6.1 – Acid sulfate soils
 Clause 6.2 – Earthworks
 Clause 6.4 – Stormwater management
 Clause 6.6 – Essential services
 Clause 6.7 – Mixed use development in business zones

An assessment of the Development Application revealed that the proposal complies with the matters raised in the above clauses, except for Clause 4.3. A more detailed assessment against the zoning, environmental and numerical development standards contained in the abovementioned clauses is provided below.

Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the CLEP 2012, which are as follows:

“1.2 Aims of the Plan

- (a) to provide for a range of development that promotes housing, employment and recreation opportunities for the existing and future residents of Canterbury,*
- (b) to promote a variety of housing types to meet population demand,*
- (c) to ensure that development is of a design and type that supports the amenity and character of an area and enhances the quality of life of the community,*
- (d) to create vibrant town centres by focusing employment and residential uses around existing centres and public transport nodes,*
- (h) to protect the natural environment for future generations and implement ecological sustainability in the planning and development process,*
- (i) to protect and promote the environmental and cultural heritage values of Canterbury.”*

The proposal generally complies with the relevant aims of this Plan with particular regard to:

- the provision of housing and employment,
- a variety of housing types,
- design that supports amenity and character of an area,
- design that enhances the quality of life of the community, and
- supporting vibrant town centres by increasing density in existing centres and close to transport nodes.

Clause 2.3 Zone objectives and Land Use Table

The site is located in the B2 Local Centre zone, in which development for the purpose of ‘shop top housing’ and ‘commercial premises’ are permitted with development consent. Moreover, the proposal is consistent with the objectives of the B2 zone, being:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.*

The proposed development meets the objectives of the B2 zone as it provides for multiple commercial tenancies of various sizes on the ground floor and residential accommodation above. The site is an accessible location being within walking distance to regional bus routes and the train station which creates opportunities for the use of transport alternatives to private cars. The proposal will add to the diversity of economic activity in the Earlwood local centre.

The design comprises a mix of residential dwelling types through incorporating one, two and three bedroom apartments and the ground floor provides for a number of retail spaces/tenancies which can service the needs of the community.

Clause 2.7 Demolition requires consent

This clause requires development consent to be obtained for the demolition of a building. The proposal includes the demolition of all existing structures on the site.

Clause 4.3 – Height of Buildings

In accordance with CLEP 2012 Height of Buildings Map, there are two building heights that apply to the site.

- 221-235 Homer Street and 241-247A Homer Street – 18m
- 208 Wardell Road – 8.5m

The proposal complies with the maximum building height controls with the exception of the outer edge treatment to the communal open space area on Level 2. The variation proposed is discussed in relation to Clause 4.6 to CLEP 2012 below.

Clause 4.4 – Floor Space Ratio

In accordance with CLEP 2012 Floor Space Ratio Map, there is no floor space ratio control applying to the subject site.

Clause 4.6 – Exceptions to development standards

The applicant has provided a written request to vary maximum building height under the provisions of Clause 4.6 – Exceptions to development standards in Canterbury LEP 2012. The proposal exceeds the height of buildings control for parts of the balustrade to the outer edge of the communal open space area on Level 2. The section of the balustrade exceeding the 8.5m height control as shown highlighted yellow in Figure 7. The height breach is also shown in the height blanket diagram in Figure 8.

As seen in Figures 8 and 9, parts of the proposed balustrade are above the 8.5m height of buildings control with the maximum breach being 1.6m. This is a variation of 18.8% to the 8.5m development standard.

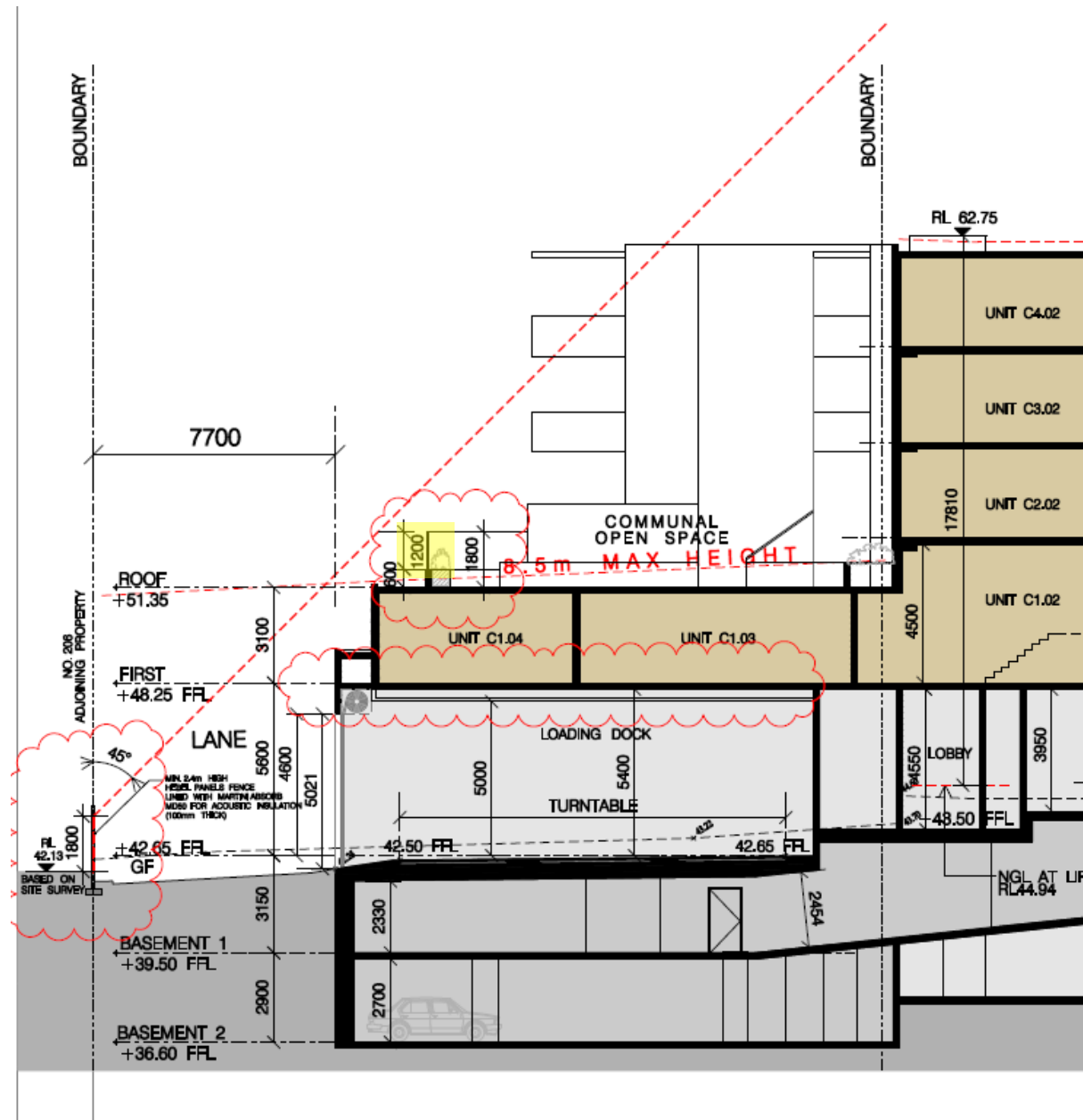


Figure 7: Section diagram showing the edge of the balustrade (highlighted yellow) that exceeds the 8.5m height of buildings development standard



Figure 8: Height blanket diagram from applicant's Clause 4.6 variation request

In consideration of the Clause 4.6 variation request, Clause 4.6(3) of the CLEP 2012 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 justifications from the applicant's written Clause 4.6 variation request in consideration of Clause 4.6(3), are as follows:

- *"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 development in the locality,*
- *The redevelopment of this corner site will contribute to the revitalisation of this section of Homer Street and the Earlwood Local Centre,*
- *The development proposal has been designed with a 5 storey form over the portion of the site subject to a 18m maximum height standards and a 2 storey form at the rear of the site subject to an 8.5m maximum height standard. The building wholly complies with the 8.5m standard with the fencing element presenting a minor variation to the standard, resulting from the site slope south-north."*

- *“The rear of the building has been set back 7.7m from the northern boundary to accommodate a 6m wide lane and footpaths in accordance with the Canterbury DCP. The communal open space area was originally calculated on the site area, less the area dedicated for the lane, being a reduction of 393m² of site area.
Report Note: the lane is 7.7m wide, not 6m as described in this written variation request.*
- *The communal open space at lodgement of the development application was in excess of 25% of the site area excluding the land dedication. Following correspondence with Council during the development application process, it was determined that additional communal open space area could be accommodated at the level two rear podium, meeting 25% of the site area including the area excluding the lane and being a better environmental outcome for the site. The location of communal open space at the level two rear podium requires the provision of an acoustic fence at the building edge, presenting variation to the 8.5m height standard.”*
- *“The variation to the 8.5m height standard is attributed to a minor acoustic fencing element associated with the communal open space area at the rear of the site.”*
- *“The provision of additional communal open space on an otherwise underutilised podium is a good environmental and planning outcome for the site, with the variation to the height limited to a minor fencing element, readily absorbed into the massing of a 2 – 5 storey shop top housing development which otherwise complies with the height standard.”*
- *“The variation to the building height standard does not attempt to affect the planning outcome for the broader locality; rather the variation is the result of the site slope and accommodating additional communal area. The parapet of the building complies at the rear interface, reflecting the scale and form of development planned for the locality.”*
- *“The variation to the height standard will not result in unreasonable amenity impacts to adjoining lower density land uses (dwelling houses) to the north of the subject site. Furthermore, the acoustic fence will not impact the interrelationship between the proposed shop top housing development and the lower density land.”*

Clause 4.6(3)(a) requires the applicant's request to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The applicant's request to vary the height of buildings development standard demonstrates that the proposal meets the objectives of Clause 4.3 for height of buildings and meets the objectives for development in Zone B2. In conjunction with the abovementioned environmental planning grounds, the Clause 4.6 variation request adequately demonstrates that compliance with the development standard is both unreasonable and unnecessary in this particular case.

Clause 4.6(4) requires the following:

- “(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*
- (b) the concurrence of the Planning Secretary has been obtained.”*

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

- That the development meets the objectives of Clause 4.3 and the objectives for development in Zone B2 and
- That the development achieve the Objects of the EP&A Act as follows:
“1.3(c) – The proposal is an orderly and economic use of the site with the variation to height standard accommodating additional communal area on an otherwise unutilised podium area.
1.3(g) – The proposed development provides a high level of on site amenity to residential units. The variation to height is a good design outcome for the site, accommodating additional communal open space at the northern interface of the development, receiving good solar access.”

The objectives of Clause 4.3 to CLEP 2012 are:

- “(a) to establish and maintain the desirable attributes and character of an area,*
(b) to minimise overshadowing and ensure there is a desired level of solar access and public open space,
(c) to support building design that contributes positively to the streetscape and visual amenity of an area,
(d) to reinforce important road frontages in specific localities.”

The applicant’s request explains that the development meets the objectives of Clause 4.3 as follows:

“Objective (a) – *The development proposal has been designed to wholly comply with the 18m and 8.5m height limits applicable to the site presenting a compatible built form that steps with the slope and applicable height standards across the site.*

The development provides a strong corner element to Homer Street/Wardell Road that complies with the applicable standard. The variation to the 8.5m height standard is at the rear of the site and attributed to a minor fencing element associated with communal open space area. The parapet of the building at this point complies with the height limit and the provision of the acoustic fence will not impact the character of the development as it is viewed from the public domain or adjoining residential properties to the north of the site.

Objective (b) – *The subject site is located to the south of the lower density land use zone. The portion of the building which presents a variation to the height limit is a minor fencing element, will not present any overshadowing impact to the adjoining land uses and would readily be absorbed into the massing of the shop top housing development.*

Objective (c) – *The development proposal is a high quality shop top housing development that will contribute to the revitalization of this eastern segment of the Earlwood Town Centre providing a defined street corner and stepping down in height towards the lower density land use zones to the north consistent with the intent of the height limit. Communal open space is provided on a podium at the rear, northern portion of the subject site, set back behind a 7.7m laneway further contributing to a separation between the density of land uses.*

The parapet of the building complies with the height limit and the minor fencing element will not impact the interrelationship between the otherwise compliant built form on the site and the residential dwellings to the north.

Objective (d) – *The development proposal has been designed to comply with the height limits applicable to the subject site, providing a 5 storey form that addresses Homer Street, the primary frontage, stepping down to a 2 storey form at the rear of the site, adjoining a new dedicated laneway and residential dwellings to the north. The height of the built form recognizes the hierarchy of road frontages. The minor fencing element does not constitute a storey and will not impact the interrelationship between the otherwise compliant built form on the site and the residential dwellings to the north.”*

The objectives for development in Zone B2 to CLEP 2012 are:

- *“To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To facilitate and support investment, economic growth and development for active, diverse and well-designed centres.”*

The applicant's request explains that the development meets the objectives for development in Zone B2 as follows:

- *“The ground floor commercial premises are appropriately sized to accommodate an anchor tenant and a range of smaller retail tenancies, providing a range of services within the local centre.*
- *The development proposal will provide employment opportunities and additional opportunity for small local businesses.*
- *The subject site has good access to public transport – bus stops on Homer Street and the additional residential units and commercial tenancies within the catchment of these services will support public transport use.*
- *The development of the land will support the economic growth of the locality and contribute towards achieving housing targets under the Sydney Metropolitan Strategy.*

- *The built form has been designed in accordance with the site conditions and will create a strong corner element within this eastern segment of the Earlwood Town Centre.”*

A variation to the overall building height development standard is considered acceptable in this specific case. The applicant has presented sufficient environmental planning grounds for the variation and has demonstrated the development meets the relevant objectives of the height of buildings development standard and the objectives for development in Zone B2.

The variation applies to sections of the balustrade to the northern and western edges of the communal open space area on Level 2. The use of this part of the building for communal open space that exceeds the minimum requirement is considered to be an asset to the future residents. The balustrade will be built in accordance with the recommendations of the Acoustic Report which requires a 600mm high masonry planter bed edge and a 1.2m high glass or Perspex balustrade with no gaps. The majority of the balustrade will therefore be transparent and will not add bulk to the building. Planting behind the balustrade will be visible from the adjoining public space and from nearby residential properties. The visual impact of the minor height non-compliance is minimal and will enhance the aesthetics of the building.

To insist on strict compliance would require the balustrade to be inset from the edge of the communal open space. This would leave a space to the edge of the parapet which is not able to be maintained. There are no benefits to insisting on strict numerical compliance in this case.

Based on the reasons and justification in the applicant's Clause 4.6 variation request and the absence of beneficial outcomes through strict numeric compliance, it is considered that the proposed non-compliance is worthy of support and represents an appropriate degree of flexibility specific to this case.

Clause 6.1 – Acid sulfate soils

The south and western part of the site is mapped at Class 5 on Council's Acid Sulfate Soils Map.

In accordance with CLEP 2012, development consent is required for the carrying out of works within 500m of adjacent Class 1, 2, 3, or 4 that is below 5m AHD and by which the groundwater table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.

The subject site is not within 500m of any land mapped as Class 1, 2, 3 or 4 and will not lower the water table on any land mapped as Class 1, 2, 3 or 4. An Acid Sulfate Soils Management Plan is not required.

Clause 6.2 Earthworks

In accordance with CLEP 2012, in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), Council must consider the following matters:

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

The development is considered to be consistent with this clause. The development involves excavation works to accommodate two levels of basement carparking. The extent of the excavation is appropriate and acceptable subject to conditions of consent requiring engineering details and a Dilapidation Report to the satisfaction of the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate (CC).

The application is accompanied by a Desktop Geotechnical Investigation from Witt Consulting dated July 2020 which finds the level of earthworks to be acceptable, subject to conditions of consent.

Clause 6.4 – Stormwater Management

This clause applies to all land in residential, business and industrial zones. Consent must not be granted to development on land to which this clause applies unless Council is satisfied that the development:

- “(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.”*

The proposal is located in a commercial centre and requires the construction and dedication of a public laneway. In this case, impervious surfaces are required to achieve accessible, low maintenance footpath frontages and accessible connections to building entries as well as vehicle access and egress and the construction of the new laneway.

The Stormwater Management Design has been reviewed by Council's Development Engineer and found to be satisfactory subject to recommended conditions of consent.

Clause 6.6 – Essential services

Council must be satisfied that the following services are available or adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

The proposal is located within an existing urban area with existing utility connections, stormwater drainage and vehicle access to a public road.

Clause 6.7 – Mixed use development in business zones

This clause applies to land in Zones B1, B2 and B5 and permits development consent to a mixed-use development incorporating residential accommodation and a medical centre.

The proposal does not involve use of the ground floor area for the purpose of a medical centre. The ground floor will be used for commercial purposes and common access to residential apartments.

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

Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. The Draft CBLEP 2020 has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020. Whilst 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 LEP template.

With respect to the proposed development, the provisions of CLEP 2012 are carried over into the Draft LEP for this site and the proposal remains consistent with the aims and objectives of the draft instrument. The proposed development is not inconsistent with the draft provisions. The same variation to the Height of Buildings development standard applies under the draft LEP.

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

Canterbury Development Control Plan 2012

Below is an assessment of the development against the relevant controls contained in the *Canterbury Development Control Plan 2012* (CDCP).

DCP Part B1 – Transport and Parking

An assessment of the proposal against the car and bicycle parking rates in Part B1 of CDCP 2012 is provided below:

Standard	Requirement	Proposal	Complies
Residential Car Parking	Studio: 0.5 spaces per dwelling (nil) 1 bedroom: 1 space per dwelling (14) 2 bedroom: 1 space per dwelling (33) 3 bedroom or more: 1 space per dwelling (16) Visitor Parking: 0.15 spaces per dwelling (9.45)- <u>(10)</u> TOTAL REQUIRED: 63 resident spaces plus 10 visitor spaces plus 1 carwash bay	The proposal has: 63 x residential spaces (incl 7 accessible spaces) 10 x visitor spaces (incl 2 accessible space) 1 carwash bay	Yes
Residential Bicycle Parking	<ul style="list-style-type: none"> • Residents: 1 space per 5 dwellings (12.4)(12) spaces required). • Visitors: 1 space per 10 dwellings (6.2)(6) spaces required) <p>Total: 18 spaces required.</p>	20 bicycle spaces in basement 2	Yes

Standard	Requirement	Proposal	Complies
Retail Car Parking	<p>B2 Zones – Accessible Centres</p> <p>1 space per 50m² GFA (< 120m²)</p> <p>1 space per 40m² GFA (120m² – 1,000m²).</p> <p>1 space per 27m² GFA (> 1,000m²).</p> <p>Total commercial floor space proposed = 1,796m² (plus 402m² staff amenities and storage ancillary to the supermarket premises)</p> <p>Total 80 commercial spaces required.</p> <p>Visitor parking for shops (excluding local shops) shall be provided at the following rate 80% of parking rate to be allocated for visitors and short stay parking.</p> <p>20% of the parking rate is to be allocated for staff and long-stay parking</p> <p>In larger retail developments containing a supermarket, areas are to be provided in the car park for storage of shopping trolleys.</p>	<p>Total 81 commercial car parking spaces are proposed.</p> <p>12 staff spaces in Basement Level 2.</p> <p>69 retail customer spaces in Basement Level 1.</p> <p>Allocation and marking of short and long stay spaces is recommended to be required by conditions of consent.</p> <p>Shopping trolley bays proposed in basement plan 2</p>	<p>Yes</p> <p>Yes subject to conditions of consent</p>
Retail Bicycle Parking	<p>Staff: Minimum 1 space per 300m² GFA = 7.1 (7) spaces</p> <p>Patrons: Minimum 1 space per 500m² GFA over 1,000m² = 2.31 (2) space</p> <p>TOTAL: 9 spaces</p>	13	Yes

In addition to the provision of on-site parking, the proposal incorporates a commercial loading/unloading bay at the ground floor accessible from the new public laneway and Wardell Road. A goods lift links the loading bay to the supermarket.

Other commercial tenancies are linked to the loading bay via ramps internal to the building.

Further analysis of the loading bay and movement of goods, storage and movement and servicing of wastes and recyclables is included in the Internal Referral Responses below.

DCP Part B2 – Landscaping and Part B3 – Tree Preservation

The application includes a Landscape Plan prepared by a suitably qualified Landscape Architect in accordance with the requirements of Part B2 of CDCP 2012. The Landscape Plan will form part of the conditions of consent to ensure that the proposed development adequately satisfies the requirements.

DCP Part B4 – Accessible and Adaptable Design

The Access Report prepared by Access Solutions NSW Pty Ltd was submitted as part of the Development Application. The report concludes that the design generally complies with the relevant standards. Where the design includes some non-compliances, these matters can be resolved through further design details being provided at the relevant Construction Certificate stage.

On this basis, the design is considered acceptable from an accessible and adaptable design perspective. The recommendations of the report will be incorporated into conditions of consent.

DCP Part B5 – Stormwater and Flood Management

The proposed development is required to comply with all relevant provisions of this part of the DCP, including requirements to provide on-site detention where relevant and provide a connection to Council's local stormwater drainage network. The development application was referred to Council's Development Engineer who recommended conditions of consent.

DCP Part B7 – Crime Prevention and Safety

An assessment of the proposed design against the relevant provisions of Part B7 is provided in the table below:

Standard	Requirement	Proposal	Complies
Crime Prevention through Environmental Design	Avoid blind corners	Safe sight lines have been indicated in the ground floor plan to demonstrate safety for drivers and pedestrians in the vicinity of the laneway intersection with Wardell Road and the loading bay. All other ground floor facades have straight lines of sight and minimal recessed areas. Conditions of consent are recommended for recessed areas for fire egress and the electrical kiosk to have low level security lighting after daylight hours.	Yes
	Provide natural surveillance for communal and public areas.	Street frontages to Wardell Road and Homer Street have direct lines of sight from commercial premises and residential lobbies with conditions of consent to ensure all glazing is clear and unobstructed. The laneway will require CCTV.	Yes subject to conditions
	Provide clearly visible entries.	All lobbies and commercial entries are clearly visible	Yes
	Design the fence to maximise natural surveillance from the street to the building.	No fence proposed at ground level. Communal open spaces are required to be fenced to comply with the recommendations of the Acoustic Report.	N/A
	Avoid landscaping that obstructs natural surveillance.	Landscaping on upper level will not obstruct natural surveillance within the communal open space areas.	Yes
	Ensure buildings are clearly identified by street numbers.	Recommended as conditions of consent	Yes – subject to conditions of consent
	Use materials that reduce the opportunity for vandalism.	Recommended as conditions of consent	Yes – subject to condition of consent

Standard	Requirement	Proposal	Complies
	Provide an appropriate level of security for individual dwellings, car parks and communal areas through use of intercoms, self closing doors and signage.	Recommended as conditions of consent	Yes – subject to condition of consent

DCP Part B9 – Waste

The application was referred to Council's Project Officer – Resource Recovery who supports the proposal subject to recommended conditions of consent.

DCP C5 - Shop Top Housing

The table below provides an assessment of the proposal against the relevant controls outlined in Part C5 of CDCP 2012.

Standard	Requirement	Proposal	Complies
C5.2.1.3 – Balconies and Communal Open Space	The apartment layout and communal open space requirements specified within the ADG		
C5.2.1.4 – Layout and Orientation	Orientate development to maximise solar access and natural lighting.	Achieved	Yes
	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	Achieved	Yes
	Site new development and private open space to avoid existing shadows cast from nearby dwellings.	Achieved	Yes
	Site a building to take maximum benefit from cross-breezes and prevailing winds.	Achieved	Yes
	Do not compromise the creation of active street frontage or casual surveillance of the street, communal space and parking areas, through the required orientation.	Continuity of active street frontages is optimised given the need for heavy vehicle access to the loading dock and the dedication of the laneway	Yes
C5.2.2.1 – Floor Space Ratio	The development is to comply with the maximum FSR development control stipulated within CLEP 2012.	N/A	N/A

Standard	Requirement	Proposal	Complies
C5.2.2.2 – Floor to Ceiling Height	Refer to ADG compliance table above		
C5.2.2.3 – Setbacks	The development is assessed against the relevant setback controls outlined within Part D1 of CDCP 2012 pursuant to Part C5.3.2.3(C1) of CDCP 2012 and complies with the ADG. Setbacks for the upper most storeys are compliant with the DCP requirements specific to Earlwood Local Centre (see tables below)		
C5.2.2.4 – Building Depth	The ADG sets the objectives and controls for building depth in the LGA for shop top housing to which SEPP 65 relates. Refer to 4B Natural Ventilation of the ADG for objectives, design criteria and design guidance.		
C5.2.2.5 – Building Separation	The ADG sets the objectives and controls for building separation in the LGA for shop top housing to which SEPP 65 relates. Refer to 3F Visual Privacy of the ADG for objectives, design criteria and design guidance.		
Part C5.2.3 – Building Design			
Building Entries	Provide accessible entries for all potential use such as the transporting of furniture.	The Access report submitted with the development application notes that compliance can be achieved. Conditions of consent are recommended that details must be finalised to the satisfaction of the PCA prior to the issue of the CC	Yes – subject to conditions
	Face habitable rooms towards the street, private open space, communal space, internal driveways etc in order to promote passive social interaction and community safety.	A variety of habitable rooms and private open space areas are oriented to both street frontages	Yes
Façade Treatment	The development is assessed against the relevant façade treatment controls outlined within Part D1 of CDCP 2012 pursuant to Part C5.2.3.1(C3) of CDCP 2012.		
C5.2.3.2 – Roof Design and Features	Roof terraces are permitted with consent in all business zones except the B1 zone.	Not a B1 zone	N/A

Standard	Requirement	Proposal	Complies
	A management strategy is required and must be approved by Council as part of the development application, for any proposed roof terrace.	A communal open space Plan of Management was submitted as part of the application and, in conjunction with the recommendations of the Acoustic Report, is considered satisfactory.	Yes. The Plan of Management and Acoustic Report will form part of the conditions of consent.
	Supplement open space on roof terraces by providing space and appropriate building systems to support the desired landscape design, incorporating shade structures and windscreens to encourage use of roof top open space.	Adequate communal open space areas are provided at Level 1 and Level 2.	Yes
	Demonstrate that roof terrace has been designed so as to protect the privacy, solar access and amenity of adjoining buildings. Measures to minimise overlooking of adjoining properties include screening or planting between properties and preventing rooftop users from standing at the edge of roof terraces that look into adjoining properties through planting and screens.	The communal open space on level 1 provides for a variety of facilities for the enjoyment of residents including a BBQ Area and children's active play area The communal open space on level 2 provides for seating and a communal vegetable garden	Yes
	Allow for views and passive surveillance of streets and public open space from roof terraces.	The communal open spaces allow for views for passive surveillance of the street.	Yes
C5.2.3.3 – Dwelling Layout and Dwelling Mix	Min 10% of apartments to be adaptable or accessible 10% of 62 = 6.2 (6 adaptable/accessible rooms required)	The proposal provides 7 adaptable units (20%).	Yes
C5.2.3.4 – Building services	All letterboxes be installed to meet Australia Post Standards	Mail boxes provided at each residential entry lobby area	Yes
	Design and provide discretely located mailboxes at the front of the property.	As above	Yes

Standard	Requirement	Proposal	Complies
	Integrate systems, services and utility areas within the design of the whole development.	Satisfactory	Yes
C5.2.4.1 – Solar Access and Overshadowing	The ADG sets the objectives and controls for solar access and overshadowing in the LGA for Shop Top Housing to which SEPP 65 relates. Refer to 4A Solar and Daylight Access of the ADG for objectives, design criteria and design guidance.		
Solar Access and Overshadowing – Adjoining Development	Development to retain a minimum of 3 hours of sunlight between 8am-4pm on 21 June for existing living areas and 50% of the principal private open space.	Proposal complies with ADG requirements which prevail over the DCP	See ADG compliance table above
Acoustic Privacy	Communal balconies are not to be located directly adjoining bedroom window.	Communal open space adjoins some bedroom windows. However, appropriate dense planting and planter boxes will protect amenity and privacy as well as narrow window design and fixed screening for security	Acceptable design solutions
	Bedroom windows in new dwellings that would be located at or close to ground level are to be raised above, or screened from, any shared pedestrian pathway.	N/A	N/A
	Screen balconies or windows in living rooms or bedrooms that would face a driveway or basement ramp	N/A	N/A
	Design to address all requirements in 'Development Near Rail Corridors and Busy Roads- Interim Guideline'	An acoustic report prepared by Acoustic Noise and Vibration Solutions P/L was submitted with the application and provides recommendations on construction methods and materials to mitigate for road noise.	Yes.

DCP D1 – Business Centres – General

The table below provides an assessment of the proposal against the relevant controls outlined in Part D1 of CDCP 2012. The controls set out in D1.1 are general

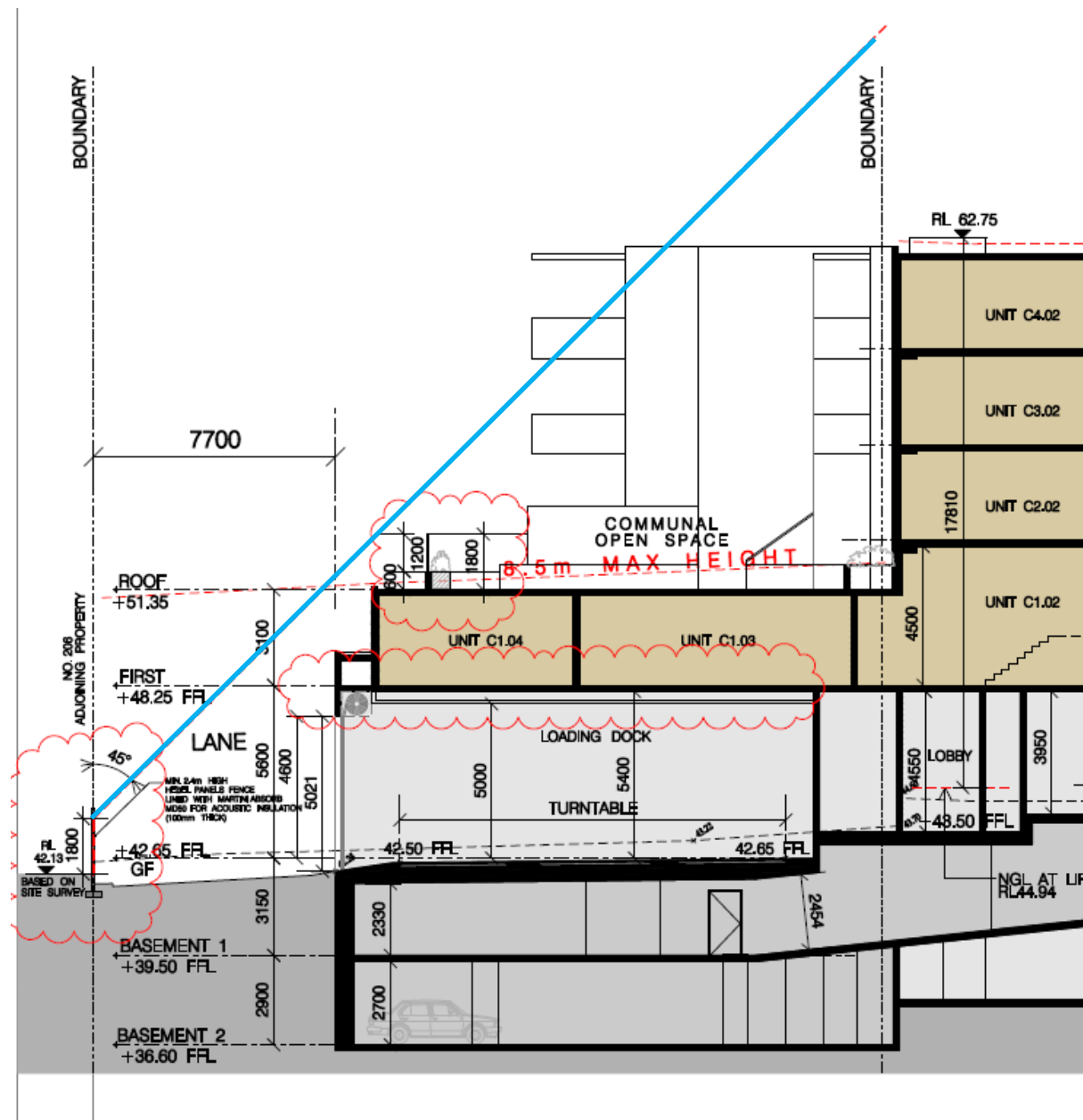
controls to be applied to all business centres and the controls in D7 specifically apply to local centres including the Earlwood local centre.

Standard	Requirement	Proposal	Complies
D1.2.1 – Minimum Frontage	A minimum frontage of at least 18m shall be provided.	81.39m (Homer Street frontage) 73.465m (Wardell Road)	Yes
D1.2.3 Isolated Sites	Neighbouring properties are not to be isolated so that the property will be unable to reasonably accommodate redevelopment.	No site will be isolated by the proposed development.	Yes
D1.3.3 – Floor to Ceiling Height	Provide a minimum 3.3m floor to ceiling height for the ground floor	Floor to ceiling heights for commercial tenancies exceed 3.3m	Yes
D1.3.4 – Setbacks	B2 Zone 1-3 storeys – Build to Front Boundary	Ground floor to Level 2 nil setbacks	Yes
	Front Setback: Fourth Storey – 3m Greater than Four storeys-5m (all storeys to be set back this distance including the fourth storey)	Third and fourth levels set back a minimum 4.95m from Homer Street.	Minor non-compliance supported by Council's Urban Design Officer
	Side Setback: Except where a proposed development adjoins a residential zone, setbacks are not required in the B1 or B2 zones when the desired character is for a continuous street frontage	No side setback required and none proposed	Yes
	Proposed developments that adjoin residential zone boundaries to the rear are to comply with the rear setback that is defined by D1.3.4(C7-C9).	No elements projecting into building height plane as shown in Figure 9.	Yes
D1.3.5 – Building Depth	Building depth for commercial premises must be Min 10m in depth	Commercial tenancies have a depth of 10m except for the 46m ² tenancy in Wardell Road which is 4.5 x 10m wide. The 10m width dimension is considered suitable rather than depth to optimise window frontage to Wardell Road	Minor variation to minimum dimension considered acceptable.

Standard	Requirement	Proposal	Complies
	Max Street frontage wall length of 50m.	<p>Homer Street – 81.39m Wardell Road – 73.465m</p> <p>The development optimises activation of both street frontages. The Earlwood Local Centre is a strip shopping centre along Homer Street and continuity of street frontage is a characteristic of this centre.</p> <p>The variation is considered appropriate in this context.</p>	Variation considered appropriate in the context of the Earlwood commercial strip and supported by Council's Urban Design Officer
D1.4 – Building Design	Design and orient development to maximize solar access and natural light, without unduly increasing the building's heat load.	Achieved. Northerly aspect optimised with communal open space on the northern side of the building and adequate landscaped area within the COS to offset heat load.	Yes
	Locate entries so they relate to existing street and are clearly visible	Achieved	Yes
	Provide entries to upper levels from the street front façade to encourage activities on the ground floor.	Achieved	Yes
	Provide an awning over entry to contribute to legibility and the public domain	Achieved -continuous awnings are proposed to Homer Street and Wardell Road	Yes
	The façade of the building shall be built to the front street boundary	Nil setbacks to both Homer Street and Wardell Road	Yes
	Cantilevered awning to overhang the footpath a minimum width of 3m	Achieved. Conditions imposed to ensure design details are compatible with street tree planting.	Yes
	Cantilevered awning height to be in the range of 3.2m-4.2m	Can be achieved subject to conditions	Yes – subject to conditions

Standard	Requirement	Proposal	Complies
	Posted awnings or colonnades will not be supported.	N/A	N/A
	Windows on the street frontage must not be mirrored.	Conditions recommended.	Yes – subject to conditions
	Do not place external solid roller shutters or brick walls on shopfronts	None proposed	N/A
	Security grills must be discreet.	Security door required to loading dock	Yes
D1.4.3 – Façade Treatment	New building forms and design features shall not mimic traditional features.	Schedule of finishes included in architectural set of plans. There are no traditional features of the Earlwood Local Centre required to be reflected or replicated at this site. The façade design has been resolved in consultation with Council's Urban Design Assessment Officer.	Satisfactory
	Incorporate contrasting elements in facades	Achieved	Yes
	Use a harmonious range of high quality materials, finishes and detailing.	Achieved	Yes
	Consideration in the design of commercial premises is to be made for mechanical ventilation required by potential future food shops and restaurants	Floor to ceiling heights can accommodate mechanical ventilation fitout to commercial tenancies at ground floor level	Yes
	Refer to existing height datum for new development to existing buildings such as eave and parapet lines, as a guide to aligning the height to levels of adjoining development	Building will be reasonably compatible with adjoining commercial development to the east	Yes
D1.4.4 – Roof Design	Roofs must not exceed pitch of 10 degrees	Flat roof	N/A

Standard	Requirement	Proposal	Complies
	Relate roof design to the desired built form and context.	Roof design is compatible with the variety of architectural styles in the Earlwood Commercial Centre	Yes
D1.4.5 – Parking and Access	Onsite parking rates and vehicle access complies	See above	Yes
D1.4.6 - Laneways	New public laneway to be constructed to Council's standards and dedicated to council	Council's Development Engineer and Infrastructure Services staff have recommended conditions of consent	Yes subject to conditions of consent
D1.4.7 – Building Services	All services suitably contained within the building	Achieved	Yes
D7 Local Centres			
D7.4 Earlwood	Development in the Earlwood Local Centre is to be in accordance with the Structure Plan shown in Figure D7.3.	Proposal achieved required street activation to both Homer Street and Wardell Road and will include construction and dedication of lane	Yes



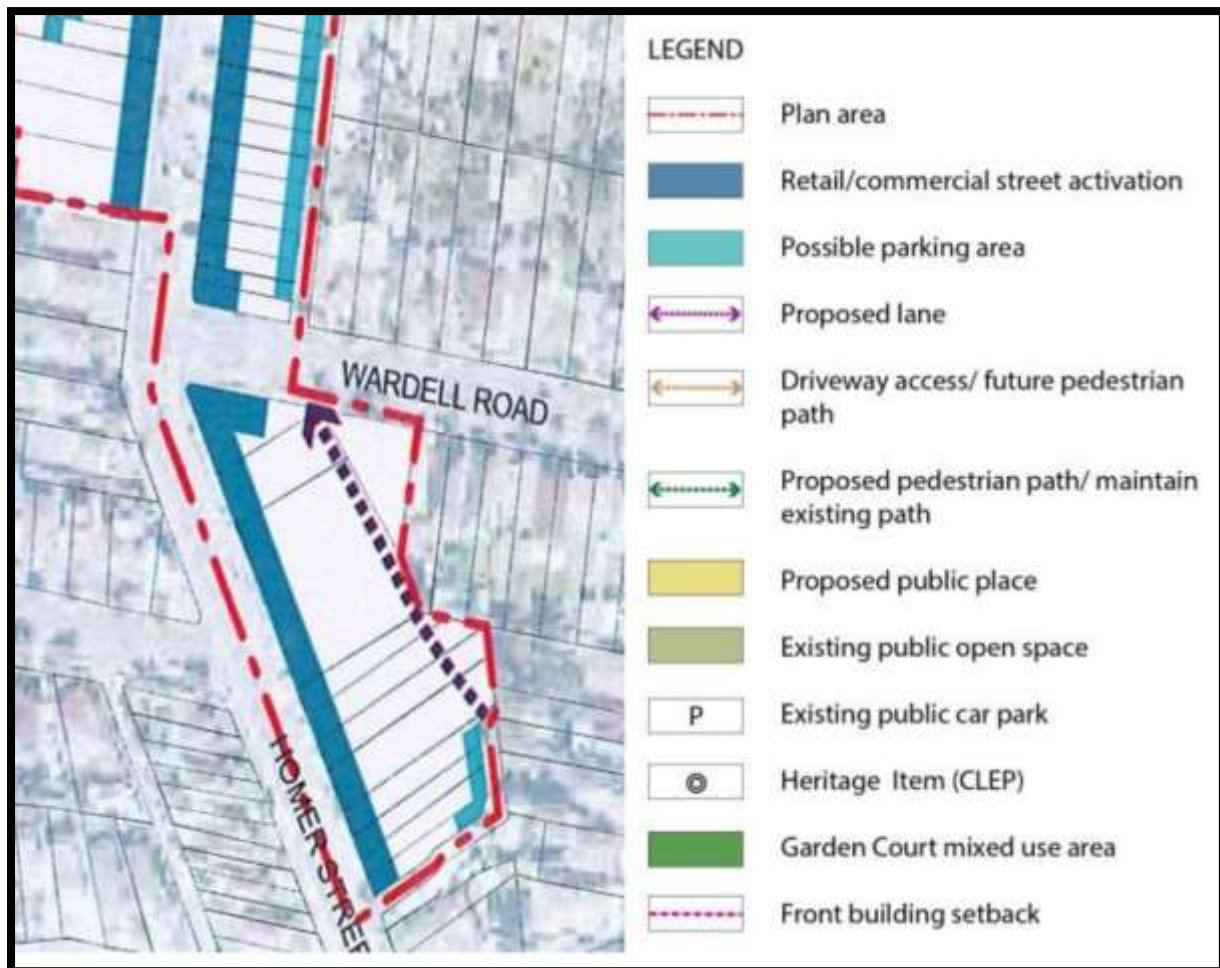


Figure 10 - Earlwood Local Centre Structure Plan

External Referrals	Comments Received
Transport for NSW	<p><i>Homer Street, at this location, is a regional classified road under the care and control of Council. Concurrence from TfNSW is required in accordance with Section 138 of the Roads Act 1993</i></p> <p><i>TfNSW has reviewed the information provided and raises no objection to the development and as such would provide concurrence to Council under Section 138 of the Roads Act 1993 and in accordance with Clauses 101 and 104 of the State Environmental Planning Policy (Infrastructure) 2007 subject to Council being satisfied with the proposed access arrangements in terms of safety and efficiency and the inclusion of the recommended requirements in any determination issued.</i></p> <p><i>Recommended requirements of TfNSW have been included as conditions of consent and are as follows:</i></p> <ol style="list-style-type: none"> <i>1. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Wardell Road and Homer Street boundary.</i> <i>2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2018 for heavy vehicle usage. Parking</i>

External Referrals	Comments Received
	<p><i>Restrictions may be required to maintain the required sight distances at the driveway.</i></p> <p><i>3. The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.</i></p> <p><i>4. All vehicles are to be wholly contained on site before being required to stop. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.</i></p> <p><i>5. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.</i></p> <p><i>6. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the intersection of Wardell Road and Homer Street during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf.</i></p> <p><i>7. Due to the development's proximity to the signals, information on waste collection including locations and times for collection should be provided to TfNSW for review.</i></p> <p><i>In addition to the above, TfNSW provides Council the following advisory comment for consideration in determining the application:</i></p> <p><input type="checkbox"/> <i>As part of the Plan of Management (POM) for the site, it is recommended that refuse services occur outside the transport peak period (0700 to 1000 and 1600 to 1900 Monday to Friday) to ameliorate impact from these activities to the surrounding transport network</i></p>
Ausgrid	No objections – Subject to conditions.
Sydney Water	<p>No objections. No specific conditions.</p> <p>Infrastructure availability is as follows:</p> <p>Water Servicing</p> <ul style="list-style-type: none"> • Potable water servicing should be available via a 100mm CICL watermain (laid in 1921) on Wardell Rd and a 150mm CICL watermain (laid in 1927) on Homer St. • Amplifications, adjustments, and/or minor extensions may be required. <p>Wastewater Servicing</p> <ul style="list-style-type: none"> • Wastewater servicing should be available via a 225mm VC wastewater main (laid in 1928) within the property boundary. • Amplifications or extensions to the wastewater network may be required complying with the Water Services Association of Australia (WSAA) code – Sydney Water edition.
Sydney Airport	<p>No objections – Subject to conditions requiring:</p> <ul style="list-style-type: none"> • Building height not to exceed a maximum 63m AHD • Separate approval required for construction machinery and equipment • At least 3 days' notice provided prior to commencement of construction • Written report verified by registered surveyor provided at completion of works

Internal Referrals	Comments Received
Traffic	<p>No objection subject to recommended standard conditions and development-specific conditions to address:</p> <ul style="list-style-type: none"> - Manufacturer's specifications for the turntable within the loading bay to be provided - Access during construction and demolition to be via the laneway only - Specific line marking to the road pavement surface and removal of the existing kerb blister island - A Construction Traffic Management Plan to be approved by Council - Road Occupancy license to be obtained from TfNSW - All waste servicing and deliveries to be outside the following hours: 7am to 10am and 5pm to 8pm Monday to Saturday inclusive - The reconstruction of the footpath for the entire frontages of Wardell Road and Homer Street
Resource Recovery (Waste)	<p>No objection subject to recommended standard conditions and development-specific conditions to address:</p> <ul style="list-style-type: none"> - Confirmation of compliance with the standards for the bin carting route prior to the issue of a Construction Certificate (CC) - Confirmation of the design details for bulk waste store rooms, communal bin store rooms and temporary bin store rooms prior to the issue of a CC - A detailed waste management plan for operation and maintenance of the shared loading area - Design details confirmed for the access, parking, manoeuvring and egress of waste servicing vehicles - A trolley restriction plan to be confirmed with the CC to ensure trolleys do not leave the premises and are collected regularly
Development Engineer	<p>No objection subject to recommended standard conditions and development-specific conditions to address:</p> <ul style="list-style-type: none"> - Works Permit for all works in Council land and impacting on Council assets - Plans indicating finished levels of all works, landscaping, utilities and building features in and adjoining Council land - Various adjustments to the stormwater design - Awnings to Homer Street and Wardell Road to be setback 600m from the face of the kerb.
Infrastructure Specialist	<p>No objection subject to recommended conditions addressing:</p> <p>Wardell Road design</p> <ol style="list-style-type: none"> 1. new kerb and gutter, road shoulder and footpath pavement to full frontage 2. Civil design cross sections to be submitted with the CC to include the existing shoulder line and the new road level to the design kerb and gutter 3. The longsection submitted with the CC must continue past the boundary of 208 Wardell Road to a minimum of 10 metres. This is required to show the interaction of the new laneway and Wardell Road. 4. Existing and proposed boundary levels at Wardell/ Homer Street must be demonstrated to match in the Civil Engineering plans submitted with the CC <p>Laneway design</p> <ol style="list-style-type: none"> 1. The laneway shall incorporate kerb and gutter on both sides of the carriageway 2. The Civil Engineering Plans submitted with the CC for the proposed retaining wall, boundary fencing and safety fencing on the north side of the laneway shall demonstrate compliance with Council's Design Standards and ensure appropriate stormwater management directed to the piped system in the laneway and adjoining public roads. Cross fall to the laneway surface must be clearly indicated in Civil Design Plans submitted with the CC. 3. The final design of the proposed laneway shall generally be in accordance with

Internal Referrals	Comments Received
	<p>the Public Domain Works Civil Engineering Plans for 221-235 & 241 Homer Street & 208 Wardell Road Earlwood, project No 200251 Issue C, prepared by Civil & Stormwater Engineering Services Pty Ltd and shall be approved by Council's City Assets Division prior to the issue of a construction certificate</p>
Environmental Health Officer	<p>No objection subject to standard conditions and specific conditions as follows:</p> <ol style="list-style-type: none"> 1. The acoustic report submitted in support of this application prepared by Acoustic Noise & Vibration Solutions Pty Ltd, titled, '<i>Acoustic Report Part 1 – Traffic Noise Assessment (Noise Break In) Part 2 – Assessment of Environmental Noise Impact (Noise Break Out) for proposed development at No. 221-235 & 241-247A Homer Street & No. 208 Wardell Road, Earlwood</i>', reference number 2020-092 Rev 4, dated 30 November 2022 and all the recommendations stated within the report, form part of the development consent. The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate. 2. No commercial garbage collection between the hours and 6:00pm and 7:00am. 3. No music to be played in the outdoor communal areas at any time. 4. Loading docks are not to be used between 10:00pm and 7:00am. 5. Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council. 6. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006). 7. The '<i>Communal Open Space - Plan of Management 221-235, 241 – 247A Homer Street, 208 Wardell Road, Earlwood</i>', submitted in support of this application dated 22 December 2021, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management. 8. The '<i>Aldi Earlwood Loading Dock Management Plan</i>' submitted in support of this application dated 18 November 2021, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management. 9. The designated car wash bay(s) must be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water. 10. The waste storage rooms must be provided with smooth and impervious walls and floors and coved at the intersection of the floor and walls. Floor areas must

Internal Referrals	Comments Received
	<p>be graded and drained to a floor waste gully connected to the sewer. Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning. Open waste storage areas must be appropriately covered and bunded. The ground must be paved with impervious material and must be graded and drained to a waste water disposal system according to Sydney Water's requirements. A hose tap connected to a water supply must be provided.</p> <p>11. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the Protection of the Environment Operations Act 1997. All waste generated must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request.</p> <p>12. No approval is granted or implied for the use of the retail/commercial tenancy. Separate development consent is to be obtained for the use of the premises, unless the use qualifies as 'exempt development'.</p> <p>13. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, '<i>Control of the obtrusive effects of outdoor lighting</i>', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.</p> <p>14. The Preliminary Site Investigation prepared by Witt Consulting Pty Ltd, titled '<i>Preliminary Site Investigation 241-247A Homer Street, Earlwood NSW 2206, 208 Wardell Road, Earlwood NSW 2206, 221-235 Homer Street, Earlwood NSW 2206</i>', dated July 2020, report number: WittC-LoucasArchitects-R-A and all the recommendations stated within the report forms part of the development consent.</p> <p>15. Prior to demolition and/or excavation, the entire site (includes any structures) is to be assessed for hazwile the arduous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a Construction Certificate.</p> <p>16. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.</p> <p>Council may also request that an NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.</p> <p>17. Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.</p> <p>Any waste material for disposal to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant</p>

Internal Referrals	Comments Received
	<p>NSW EPA guidelines.</p> <p>18. Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.</p> <p>19. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products</p>
Urban Design	No objection subject to design details of the awning to both street frontages achieving minimum clearance height of 3.2m to 4.2m above the pavement surface and stepped with the slope of the pavement with steps not exceeding 500mm and designed for compatibility with long term street tree canopy growth.
Landscape Architect	<p>No objection subject to conditions for:</p> <ul style="list-style-type: none"> - the replacement of some nominated plant species with more appropriate recommended species - a maintenance schedule submitted with the CC - automatic watering system to be included
Building Surveyor	<p>No objections subject to conditions.</p> <p>The building will be a Class 2, 6 & 7a building under the Building Code of Australia.</p> <p>The building is required to be Type A construction under the Building Code of Australia.</p> <p>The proposed building work is capable of complying with the requirements of the Building Code of Australia.</p>

Canterbury Bankstown Local Infrastructure Contributions Plan 2022 (Contributions Plan 2022)

The Canterbury Bankstown Local Infrastructure Contributions Plan 2022 applies to the development application. While the application was lodged prior to this Plan being adopted in September 2022, Section 5.1 of the Plan requires any DA determined after 31 December 2022 to have its contributions levied using this new Plan.

The proposed (Rev H) plans propose to accommodate 14 x one bedroom units; 33 x two bedroom units; and, 15 x three bedroom units.

However, while the site at 208 Wardell Rd contains a three bedroom house there is no record of a consent for any dwellings on the Homer St properties where a credit can be offered.

The application requires a contribution of \$907,314 for the residential component of the development.

The contributions payable are included as conditions of consent.

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

There are no planning agreements applicable to the proposed development.

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

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

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

The proposed development is considered to be consistent with the relevant planning provisions applying to the site. The minor variation to the height of buildings control is considered to be an appropriate degree of flexibility to allow the acoustic-treated balustrade to the edge of the additional communal open space area on Level 2 and associated environmental planning benefits in using this space efficiently.

The development is of a form, scale and character reasonably anticipated by the applicable statutory controls and regulations. Subject to recommended conditions, the development will not result in significant detrimental environmental, social or economic impacts on the locality or the amenity of neighbouring properties as a result of the proposed demolition, construction and operation.

As such, it is considered that the impacts of the proposed development on the locality and surrounds will be acceptable. As the Earlwood Local Centre undergoes transition and redevelopment, the building and its uses will be compatible with the anticipated pattern and scale of mixed use development and the continued use of adjoining land north of the new laneway for residential uses.

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

The site is considered suitable for the proposed development. There are no constraints, hazards or risks that would prevent the development from proceeding subject to the recommended conditions for ongoing management of the site and particularly the ways in which wastes, recycling and loading/unloading is managed and for the operational measures in the Plans of Management to be implemented.

Submissions [section 4.15(1)(d)]

The application and amended plans and supporting documents were advertised in the local paper and notified to adjoining and nearby property owners on three (3) occasions.

The first notification was between 30 September 2020 and 20 October 2020. Five (5) submissions were received during the first notification period of which four (4) are unique submissions.

Amended Plans and documents were received in December 2021 and the application was re-notified between 26 January 2022 and 15 February 2022. Five (5) submissions were received during the second notification period.

Further amended plans were received during September 2022 and the application was re-notified from 26 October to 15 November 2022. One (1) submission was received during the third notification period.

A submission was received outside the notification periods and this has also been considered in the assessment of the application.

Although there have been further adjustments to the plans and supporting documents since the last notification and advertising period, these adjustments have been made in a manner consistent with the requests for additional information and changes to be made in the public interest and for compliance with Council's requirements. These further amendments were not required to be subject to re-notification in accordance with Council's adopted community participation requirements.

The issues raised in submissions that are relevant to the matters for consideration in Section 4.15 to the EP&A Act are listed below along with assessment comments:

Issue: Request to delete 5th storey, out of scale in the precinct, visually imposing bulk and scale, unprecedented

Response:

The majority of the building complies with the height of buildings controls of 18m and 8.5m as required by the Canterbury Local Environmental Plan 2012. The minor non-compliance related to parts of the balustrade to the communal open space area on Level 2 and the merits of this non-compliance are supported.

The uppermost storey of the building and the roofline are compliant with the height of buildings control of 18m. The proposal complies with the setback and separation requirements of the NSW Government Apartment Design Guide (ADG) and Council's Development Control Plan (DCP).

Level 3 and Level 4 are recessed from the lower building footprint and the overall bulk and scale of the building is consistent with a form that would be reasonably expected under the adopted planning provisions for the site and for the commercial strip of the Earlwood Local Centre.

The height of the proposed building as presented to Homer Street is consistent with the expected future building height and scale as anticipated by the planning controls and is expected to be consistent with newer buildings in the Earlwood Local Centre as sites are redeveloped under the current planning controls.

The height and scale of the building as viewed from Wardell Road is appropriate for a building at a prominent intersection in Earlwood Local Centre and the façade has

been suitably designed in response to comments provided by Council's Urban Design team.

The height of the building steps down with the slope of the site and with the change to the height control within the site. The edge of the building adjacent to the new laneway is two storeys and mostly compliant with the 8.5m height control. The building is also separated from the adjoining low density residential zoned land by the new public laneway which will further separate the building from existing and future one and two storey residential development north and north east of the site.

Issue: Any approval should be in line with recent neighbouring development with regard to height and scale (examples of other developments at 211 Homer Street, 311 Homer Street, 19-21 William Street)

Response:

The building height is of a scale considered appropriate for the site and its context and consistent with the current planning controls.

Issue: Building height should transition to 2 storeys adjacent to land in Zone R2 to reduce overlooking and overshadowing

Response:

The height of the building transitions to 8.5m with a minor variation to the balustrade to the communal open space on Level 2. The balustrade and communal open space do not add a storey to the building and the edge of the building adjacent to the laneway is two storeys.

To achieve aural and visual privacy to the adjoining residential land on the opposite side of the laneway, the outer edge of the communal open space is provided with a deep soil planter bed and a balustrade compliant with the recommendations of the Acoustic Report. The height of the building along the northern edge is considered appropriate in the context and setting of the site and the separation created by the public laneway.

The building will not overshadow nearby land in Zone R2.

Issue: Does not maintain a 2 storey development when viewed from Wardell Road. It fails to consider the development impacts on the adjoining lower density properties located in the transitional R2 Low Density Residential zone. The proposed 5 storey shop top housing will appear as 6-7 storey given the sloping topography of the site

Response:

Two height controls apply to the Wardell Road frontage. The northern portion of the building adjacent to the new laneway complies with the 8.5m height control except for a minor variation to the edge treatment to the communal open space on Level 2.

This is considered an appropriate variation in this case. The southern portion of the Wardell Road frontage complies with the height control of 18m.

The building has a maximum height of 5 storeys which is the scale of development anticipated by the current planning controls.

The building is separated from the adjoining land in Zone R2 Low Density Residential by the new laneway.

A new boundary fence 2.4m high is to be constructed along the northern edge of the laneway to establish aural and visual privacy for the adjoining residential properties.

The building height is stepped with the slope of the site.

Separation distances to adjoining land in Zone R2 are compliant with the ADG.

The outer edge of the communal open space areas at Levels 1 and 2 are treated with a continuous planter bed and acoustic barrier to protect aural and visual privacy of nearby land in Zone R2.

The proposed building height, separation distances, acoustic treatments and planting to the communal open space areas are considered to provide an appropriate interface with the adjoining land in Zone R2.

Issue: Not consistent with “village character” and desired future character

Response:

The proposal is compatible with the Earlwood Village Local Centre as described in Section D7.4 of the DCP. The desired future character is for the redevelopment of the commercial strip along Homer Street with mixed use buildings with active street frontages and shop top housing and a height of buildings control of 18m which accommodates 4 to 5 storey mixed use buildings.

Issue: Overdevelopment of the site

Response:

The development is compliant with the relevant development standards for height (with a minor exception to part of the balustrade of the communal open space), setbacks and separation distances. The development provides sufficient on-site parking, communal open space and ancillary features including loading facilities and waste storage and management. The proposal also results in the construction and dedication of a new public laneway 7.7m wide and 393m². The proposal will enhance the quality of the adjoining public realm with the reconstruction of footpath pavement, provision of awnings and street trees to improve the pedestrian environment of both street frontages. For these reasons the proposal is not an overdevelopment of the site.

Issue: Overlooking to adjoining residential properties in Wardell Road and Watkins Avenue

Response:

The building complies with, or exceeds, the minimum separation distances required by the ADG to achieve aural and visual privacy to neighbouring properties. Private and communal open space areas close to the laneway are edged with a planter bed to add a landscaped buffer to the outer edge of the balconies oriented to the laneway. In addition, the Acoustic Report submitted with the application recommends acoustic barriers to the outer edge of the communal open space areas to achieve aural and visual privacy and the new fence to the northern edge of the laneway is 2.4m high and constructed of Hebel panels with acoustic properties suitable to protect the aural and visual privacy of adjoining residential properties. Conditions are recommended for the walls and fence adjacent to the laneway to be treated with design details and materials which create visual interest to avoid blank walls and to discourage graffiti.

Issue: Overshadowing of nearby residential properties

Response:

Shadow and sun view diagrams submitted with the development application demonstrate that the new building will not cast shadow onto residential properties. Midwinter shadow is primarily cast onto Homer Street.

Issue: Proposed setbacks are not compatible with the streetscape

Response:

The setbacks are compliant with the DCP and ADG as detailed in the tables above. The streetscape is undergoing transition and the commercial strip development along Homer Street is intended to achieve a continuous active street frontage as indicated in the diagram to Section D7.4 of the DCP. The proposal is consistent with the active street frontage requirements.

The building will be well separated from the adjoining residential properties by the new public laneway.

Issue: Potential for noise generation from use of communal open space and request for enclosure of space

Response:

Noise generation from the communal open space areas has been addressed in the Acoustic Report submitted with the development application. The Acoustic Report recommends:

- access and use of communal open spaces is limited to 7am to 10pm

- treatments to the outer edges of the communal open space adjoining the laneway to achieve noise attenuation; and
- Hebel panel fencing 2.4m high along the northern edge of the new laneway.

The recommendations of the Acoustic Report are included in recommended conditions of consent and will be implemented in the ongoing Plan of Management for the building operation and use.

Issue: Broader community consultation is encouraged due to scale and impact

Response:

The development application has been subject to three (3) notification and newspaper advertising periods which is consistent with the requirements of Council's adopted community participation plan.

Issue: Preliminary Site Investigation is inconclusive in terms of suitability of 221-235 Homer Street and 208 Wardell Street for residential use in accordance with Clause 7 of SEPP 55

Response:

The Preliminary Site Investigation has been assessed by Council's Environmental Health Officer who recommends specific conditions of consent to ensure that the site is made suitable for the development as well as conditions for a Hazardous Materials Inventory and unexpected finds protocol as part of the demolition and site preparation works.

Issue: Dilapidation report requested for potential impacts to adjoining assets and property

Response:

Conditions of consent are recommended for the completion of a Dilapidation Report and appropriate engineering investigations prior to the commencement of demolition works to ensure all necessary protective measures are implemented.

Issue: Contrary to public interest which will permit heavy rigid vehicles (HRVs) accessing residential street, such as, Wardell Road

Response:

The intent of the new public laneway is to provide "back of house" functions to commercial premises with frontage to Homer Street and eliminate the need for multiple points of vehicle access to Homer Street due to its status as a controlled access classified road.

The new laneway is intended to cater for a variety of servicing and delivery vehicles. The proposal includes a turntable contained within the building footprint which will

allow for specialised deliveries supporting the proposed supermarket as well as a loading bay to be shared with other commercial occupants of the site.

The loading bay will be subject to a Plan of Management as will the timing and responsibilities for waste management to ensure that the timing of truck movements to and from the site is managed to reduce impacts to traffic flow and neighbour amenity.

Conditions of consent include limitations on the timing of use of the loading bay. There must be no use between 7am and 10am and between 5pm and 8pm Monday to Saturday inclusive. This will ensure that the loading bay is used during times when traffic movements on local roads are non-peak.

Conditions are recommended to remove the kerb blister island in Wardell Road to increase traffic capacity approaching the intersection.

Conditions are recommended for line marking of the road pavement to guide safe traffic movements and facilitate efficient movement of traffic in and around the intersection of the new laneway with Wardell Road.

Issue: The acoustic report fails to satisfactorily address amenity impacts on the neighbouring residential developments with regard to operating hours of the proposed retail spaces, traffic, car parking, and noise generation from commercial uses (mechanical ventilation and plants, condenser, roller door, turntable, loading bay, retail space, warehouse operation, use of forklift, electrical substation, exhaust fumes from basement, fumes from shop ventilation etc) and residential uses (noise from communal open space).

Response:

Conditions are recommended for separate development applications for the first fitout, occupancy and use of each commercial premises. This will ensure that each operator is subject to conditions specific to the circumstances of the proposed use and activities generated.

The loading bay is fitted with roller shutters and will be subject to a Plan of Management for ongoing operations.

The Acoustic Report submitted with the application includes recommendations for the fitout, installation and maintenance of all plant, equipment and machinery and the recommendations of the acoustic report are to be incorporated into the documents that form part of the development consent. The Acoustic Report also recommends specific treatment to the outer edge of the communal open space areas at Level 1 and Level 2 and the architectural plans indicate that these treatments are included in the final approved development to protect the visual and aural privacy of nearby residential properties.

The new fence on the northern edge of the laneway is to be constructed of Hebel panels to a height of 2.4m. This will create a safety barrier which is also an acoustic treatment and privacy screen.

Issue: Conflict with the co-location of vehicular access to car basement and truck turntable/loading bay. Impact to the amenity and safety of nearby residential properties with potential of queuing of trucks/vehicles.

Response:

The applicant has provided swept path analysis and traffic queuing data which has been assessed by Council's Traffic Engineer and found to be satisfactory subject to conditions and the ongoing implementation of the Plan of Management for the operation of the loading dock and waste servicing.

Conditions are recommended for pavement marking to guide safe vehicle movements.

Conditions are recommended for removal of the kerb blister island in Wardell Road to improve capacity for safe movement of vehicles approaching the traffic lights.

Appropriate new fencing, kerb and gutter and safety barriers will be installed along the northern edge of the new laneway to contribute to the protection of neighbour safety and amenity. The proposed Hebel panel wall along the northern edge of the laneway will provide a safety barrier as well as amenity benefits in terms of aural and visual privacy.

Issue: Concerns for safety of rear yards and boundary fences. Potential for damage to fences by vehicle movements and accidents in rear lane.

Response:

New fencing, kerb and gutter will be installed along the northern edge of the new laneway to contribute to the protection of neighbour safety and amenity.

Issue: Rear yards adjoining new laneway significantly lower level than rear lane surface.

Response:

The finished levels of rear yards varies at the interface with the laneway. The construction of the fence and laneway will be subject to details in the Construction Environmental Management Plan that will form part of the Construction Certificate and will include details of demolition of existing fencing, site works and construction of the new fencing. The base of the acoustic wall will require footings and retaining walls which will be constructed within the development site to the boundary shared with neighbouring residential properties. Conditions are recommended that the Construction Site Manager to consult with adjoining residential property owners prior to the commencement of work on the boundary. Conditions are also recommended for pre- and post- construction condition reports to be submitted to the Principal Certifying Authority demonstrating that the works on the boundary have suitably protected and restored the adjacent residential land in consultation with adjoining landowners and the approval documents.

Issue: The proposed public laneway fails to minimise traffic impacts on Wardell Road.

Response:

The application includes information on swept path movements, vehicle movement data and queuing data projected for the future vehicle movements anticipated by the development. The proposed works within the site and within the adjoining public road reserve include the removal of kerbside landscaping, the kerb blister island, new road pavement marking and increasing the capacity of the road shoulder in Wardell Road to improve circulation and movement space for vehicles and pedestrians.

Council's Traffic Engineer is satisfied that the proposal will be compatible with the continued safe operating capacity of Wardell Road and Homer Street and the new laneway.

Issue: Do not support public laneway connection to Baker Lane creating a "rat run" unsuitable in a residential neighbourhood

Response:

The new laneway is intended to provide vehicle movements and access specifically for the occupants of mixed use developments between Wardell Road and Bakers Lane. The laneway is compatible with the controlled access status of Homer Street which is a classified road. Classified roads are intended to accommodate for efficient traffic flow with minimal vehicle entry and exit points.

This development application will not result in connection to Bakers Lane to the east. Connectivity will be dependent upon the future redevelopment of adjoining land east of the subject site.

Conditions of consent will improve the capacity for flow of traffic at the intersection of Wardell Road and Homer Street with the removal of the kerb blister island and new line marking.

Issue: In accordance with clause 7 of SEPP 55, before determining an application that would involve a change of use for residential purposes, the consent authority must consider a report specifying the findings of a PSI and the suitability of such site for the new use. This needs to be considered at DA stage.

Response:

Council's Environmental Health Officer has reviewed information submitted with the application regarding contamination and remediation of the site and has recommended conditions of consent.

Issue: Traffic impacts are not accurately reported as traffic surveys conducted during COVID lockdown conditions

Response:

The applicant has provided additional information regarding traffic generation based on surveys of comparable existing land uses in the locality. Council's Traffic Engineer has assessed the information regarding traffic and transport impacts and has recommended the application can be supported subject to conditions of consent specific to the anticipated traffic conditions and vehicle trips anticipated at the site.

Issue: Lack of information on potential for traffic queuing and intersection movement delays particularly at the intersection of Wardell Avenue and the new public laneway

Response:

The application includes information of traffic queuing, trip generation and swept path movement analysis for vehicles entering and leaving the site throughout the day including am and pm peaks. Council's Traffic Engineer has assessed the information and has recommended the application can be supported subject to conditions.

Issue: Wardell Road currently has a lack of on-street parking availability and vehicles blocking driveways. Insufficient onsite parking proposed

Response:

The development provides the required quantity of off street parking. The impact of increased traffic on this site is acceptable to Council's Traffic Engineer and the operation of parking within the site is acceptable to Council's Development Engineer.

Issue: The proposal should be more in keeping with the NSW LEC decision of 2 February 2006 regarding a different application

Response:

Each development application is assessed on its individual merits and the context, setting and planning provisions applicable at the date of assessment and determination. This assessment has determined that the application appropriately meets the applicable planning provisions and is suitable for the site and context subject to recommended conditions.

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the development controls contained in the *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan* which have been adopted in the public interest, as well as the *Apartment Design Guide* which provides a level of consistency in design of mixed use development

throughout Sydney. As such, approval of the development would be consistent with the wider public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012 and draft Canterbury-Bankstown LEP.

Floor to floor heights of the apartments are 3.1m. Detailed design for the Construction Certificate will investigate and demonstrate whether this is sufficient space for fire control fitouts and compliance with the National Construction Code and Building Code of Australia for fire safety for buildings of four or more storeys. The overall building height is generally below the height of buildings control (including the lift overrun). It would be unreasonable for Council to insist on a level of design detail with the development application to demonstrate compliance with this requirement of the BCA as a performance based solution or servicing design solution may not require any change to the overall building height. This design and compliance detail will be appropriately resolved with the Construction Certificate. However, as the plans which are proposed were prepared following the introduction of the need for services in the NCC and BCA, it is understood the designer has incorporated this requirement into their design (as it can affect building height and envelope). Consequently, should this application be approved, any subsequent application which seeks to increase the building height and envelope (beyond that provided for by the LEP and DCP) to accommodate these services would not be supported.

The proposal represents a significant redevelopment within the Earlwood town centre which has attracted significant community input as well as need for numerous negotiations between Council and the applicant.

The proposal is largely compliant with the relevant controls but does seek a departure from the maximum 8.5m height for sections of the top edge of the balustrade on that part of the site on 208 Wardell Rd. The non-compliant height is isolated to the balustrade and acoustic treatment for the Communal Open Space located above the loading dock. On balance, the introduction of a variation for that part of the site ancillary to open space and acoustic treatment is acceptable.

The impact of traffic, especially within Wardell Rd, as a result of this development has been of significant focus to Council and has been supported by Council's traffic unit. Beyond the impact of the development itself, this proposal introduces a strategically important laneway which, pending the successful redevelopment of the eastern adjoining property, will allow for Baker's Lane to connect to Wardell Rd.

The proposal is, notwithstanding the community concerns with it, consistent with the relevant planning controls and the desired future character for the Earlwood town centre and is, on balance, worthy of support.

RECOMMENDATION

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

CONDITIONS OF CONSENT

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

1. Approved Development.

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

Plan No.	Plan Name	Date	Revision	Prepared by
A-007	Site Plan	23/09/22	E	Loucas Architects
A-008	Basement 2 Plan	24/11/22	F	Loucas Architects
A-009	Basement 1 Plan	13/01/23	H	Loucas Architects
A-010	Ground floor plan	13/01/23	H	Loucas Architects
A-011	First floor plan	24/11/22	F	Loucas Architects
A-012	Second floor plan	23/01/23	G	Loucas Architects
A-013	Third floor plan	24/11/22	F	Loucas Architects
A-014	Fourth floor plan	24/11/22	F	Loucas Architects
A-015	Roof Plan	24/11/22	F	Loucas Architects
A-020	Elevations	13/01/23	G	Loucas Architects
A-021	Elevations	24/11/22	G	Loucas Architects
A-031	Section 2	23/01/23	H	Loucas Architects
A-033	Visual Privacy Section	23/09/22	E	Loucas Architects
A-034	Awning details	24/11/22	A	Loucas Architects
A-035	Fence details	24/11/22	A	Loucas Architects
A-040	Communal open space calculations	23/09/22	E	Loucas Architects
A-041	Max.Height Plane diagram	24/11/22	E	Loucas Architects
A-050	Solar Access	23/09/22	E	Loucas

	and Cross Ventilation			Architects
A-051	Sun View Diagrams 1	23/09/22	E	Loucas Architects
A-052	Sun View Diagrams 2	23/09/22	E	Loucas Architects
A-053	Sun View Diagrams 3	23/09/22	E	Loucas Architects
A-054	Sun View Diagrams 4	23/09/22	E	Loucas Architects
Project Ref. ISO278 Sheets 1 to 5	Landscape Plans	23/09/22	C	Isthmus Landscape Design P/L
Project Ref. 200251 Drawings 000, 101, 102, 103, 104, 105, 106, 106.1 and 107	Stormwater Concept Plans	03/04/20	B	Civil and Stormwater Engineering Services P/L
Sheet 1 of 1 (Surveyors Ref: 201035)	Plan of Subdivision	-	-	Victor John Mansell

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

- a. The Preliminary Site Investigation prepared by Witt Consulting Pty Ltd, titled '*Preliminary Site Investigation 241-247A Homer Street, Earlwood NSW 2206, 208 Wardell Road, Earlwood NSW 2206, 221-235 Homer Street, Earlwood NSW 2206*', dated July 2020, report number: WittC-LoucasArchitects-R-A and all the recommendations stated within the report forms part of the development consent.
- b. The Waste Management Plan prepared by Loucas Architects Project Ref. No Pn-0336;
- c. The Acoustic Report Ref No.2020-092 Rev 4 dated 30 November 2022 prepared by Acoustic Noise and Vibration Solutions P/L.
- d. The '*Communal Open Space - Plan of Management 221-235, 241 – 247A Homer Street, 208 Wardell Road, Earlwood*', submitted in support of this application prepared by Chapman Planning Pty Ltd dated 22 December 2021.
- e. The '*Aldi Earlwood Loading Dock Management Plan*' submitted in support of this application dated 18 November 2021.

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

- 1.2. Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans (stamped by Council) and supporting documentation:
- (i) The existing traffic kerb blister islands along Wardell Road fronting the subject site must be removed and the pavement reinstated to Council Standard at the Applicant's cost. All design cost, removal cost and reinstatement of the road conditions to Council Standard must be paid for by the applicant/developer. Details of the works shall be included in the plans that form part of the Construction Certificate.
 - (ii) The footpath along Homer Street and Wardell Road fronting the development site are to be re-constructed at the Applicant's cost. Street tree planting is to be incorporated into the footpath reconstruction works and details of the planting cells are to comply with Council's standards and match the detailed Landscape Plan to be submitted with the Construction Certificate.
 - (iii) The plans submitted with the construction certificate are to include full engineering and construction details of the fence to be installed along the northern side of the new public laneway including details of footings. All works for the construction are to be located wholly within the future road reserve of the new public laneway.
- 1.3. The substation is to be constructed as per the approved plans noted in Condition 1.1.
- 1.4. A 7.7-metre-wide laneway dedication along the full length of the northern boundary of the site is to be incorporated into all relevant plans and documentations, to accommodate for the creation and dedication of a public laneway as approved with this development consent.
- 1.5. No approval is granted for use of any ground floor commercial premises through this determination notice. Separate consent through a new development application to Council is required before any use of the commercial premises, unless where exempt or complying in accordance with the relevant legislation.
- 1.6. A separate application shall be submitted to Council before the erection of any signage unless the proposed signage is "exempt development" in accordance with State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

2. Conditions Imposed by Transport for New South Wales (TfNSW).

- 2.1. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Wardell Road and Homer Street boundary.
- 2.2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2018 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- 2.3. The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.
- 2.4. All vehicles are to be wholly contained on site before being required to stop. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- 2.5. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.
- 2.6. A Road Occupancy License (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the intersection of Wardell Road and Homer Street during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.
- 2.7. Due to the development's proximity to the signals, information on waste collection including locations and times for collection should be provided to TfNSW for review.
- 2.8. Waste services shall occur outside the transport peak period (0700 to 1000 and 1600 to 1900 Monday to Friday) to ameliorate impact from these activities to the surrounding transport network.

3. Conditions Imposed by Ausgrid

- 3.1. The design submission must comply with relevant Ausgrid Network Standards and Safe Work NSW Codes of Practice for construction works near existing electrical assets. The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. Ausgrid's Network Standards can be sourced from Ausgrid's website www.ausgrid.com.au

4. Conditions Imposed by Sydney Airports

- 4.1. The building must not exceed a maximum height of 63 metres AHD, this includes all lift over-runs, vents, chimneys, aerials, antennas, lightening rods, any rooftop garden plantings, exhaust flues etc.
- 4.2. Separate approval must be sought under the Regulations for any equipment (ie. Cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (ie. Cranes) be obtained prior to any commitment to construct.
- 4.3. The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting YSSY-CA-391.
- 4.4. On completion of construction of the building, the Proponent must provide that airfield design manager with a written report from a certified surveyor on the finished height of the building.

5. Conditions to be Satisfied prior to the issue of a Construction Certificate

- 5.1. Development Contributions of \$907,314 must be paid for this development before the issue of any construction certificate. The contributions are levied under Canterbury Bankstown Local Infrastructure Contributions Plan 2022 and Section 7.11 of the Environmental Planning and Assessment Act 1979. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development. The development contribution will be allocated to the following purposes under the contributions plan:

LGA Open space and recreation facilities	\$574,695.00
LGA Access and public domain facilities	\$161,889.00
LGA Community and cultural facilities	\$157,328.00
Plan management and administration	\$13,402.00

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

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

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

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

- 5.2. 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.
- 5.3. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the Building and Construction industry Long Service Payments Act 1986, section 34. Evidence of the payment is to be provided to the Certifier. The long Service levy is calculated to be 0.35% of the total cost of the building and construction work. Payment is not required where the value of works is less than \$25,000. Payment can be calculated using the Levy Portal Calculator at <https://longservice.force.com/bci/s/levy-calculator>. Payment must be made via the Long Service Levy Portal at <https://www.longservice.nsw.gov.au>.
- 5.4. Prior to the issue of a Construction Certificate, the Construction Environmental Management Plan (CEMP) shall include a requirement that the Construction Site Manager discuss with the owners of adjoining residential properties the details of the construction works along the northern edge of the laneway (including the need for any retaining walls). This discussion is to include the provision of detailed plans, engineering details of any retaining walls and footings, construction site management, construction timing and the provision of a pre- and post-condition report for the condition of the adjoining properties. In order for the Construction Site Manager to engage in meaningful discussions with the adjoining property owners about the nature of the division between properties (including the need for retaining walls) and how the division will present when viewed from within the adjoining properties, the Construction Site Manager must make contact with the adjoining property owners well in advance (at least ten working days) before issue of the Construction Certificate. The adjoining property owners must be offered reasonable opportunity to comment on the materials and external finishes of the division and no cost will be borne by the adjoining property owners. The details in the CEMP regarding this requirement are to be to the satisfaction of the PCA prior to the issue of the Construction Certificate.
- 5.5. A soil erosion and sediment control plan must be prepared by a suitably qualified professional in accordance with Council's Demolition and Construction Guidelines and Development Engineering Standards and submitted to the certifier for approval prior to the issue of a construction certificate.

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

Please refer to www.sydneywater.com.au/tapin

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

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

- 5.7. Details indicating full compliance with the requirements of the Building Code of Australia (BCA) must be provided to the certifying authority prior to the issue of a construction certificate. The requirements of the BCA/NCC and the access report prepared by Access Solutions P/L R dated 15 December 2021, and the Acoustic report prepared by Acoustic, Vibration & Noise P/L Ref. 2020-092 Rev 2, dated 21 December 2021 must be fully complied with in the final design. Details of any Fire Engineered Solutions and deemed-to-satisfy provisions must be provided in full for approval with the Construction Certificate.
- 5.8. The development is to be carried out in accordance with the commitments shown in the 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.
- 5.9. Details are to be provided to the satisfaction of the PCA demonstrating the methods of CCTV surveillance of the laneway and contracted security service for ongoing monitoring and support.
- 5.10. Details are to be provided to the satisfaction of the PCA demonstrating that all residential lobbies and the street facades to all commercial tenancies have clear, non-mirrored and non-reflective glazing that provides a direct line of sight from the interior space to the adjoining public footpath and street.
- 5.11. Details are to be provided to the satisfaction of the PCA demonstrating the following features are accessible:
- All residential lobbies and their connection to the public footpath
 - All pedestrian entry/exits to commercial tenancies and their connection to the public footpath

- A continuous path of travel within common circulation spaces to the residential apartments linking from the lobbies to the common open space areas.

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

- 5.12. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Before the issue of a construction certificate and occupation certificate the certifier must:
- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

- 5.13. The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and 2 – ‘The Use of Ventilation and Air- Conditioning in Buildings – Mechanical Ventilation in Buildings’.

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

- 5.14. Before the issue of a construction certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – ‘The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings’, and AS1668.1 – ‘The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings’.
- 5.15. Before the issue of a construction certificate, the certifier is to ensure that all carpark exhaust does not directly vent into private or communal open space or the public footway.
- 5.16. Before the issue of a Construction Certificate, the certifier is to be satisfied by way of detailed plans that the designated car wash bay(s) are designed and

constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water.

- 5.17. No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall:
- a. Not be located on awnings or attached to the face of the building,
 - b. Not be located on roofs in such a way that it is visible from any street, footpath or park,
 - c. Be visually screened if located 1.8 metres above ground level in other locations, and
 - d. Wiring shall be fully concealed.

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

- 5.18. The location of any air-conditioning and hot water units and associated infrastructure must be located to ensure that they are not visible from the street, and that they do not result in a non-compliance with the relevant built form controls and private open space controls contained within the Apartment Design Guide. Confirmation from a suitably qualified architect that the BASIX commitments do not compromise the design guidance as contained within the Apartment Design Guide must be provided to the certifier before the issue of a construction certificate.
- 5.19. All hydrant boosters and associated services and shield walls are to be contained within cabinets and / or designed to match the appearance of the main structure of the development.
- 5.20. All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.
- 5.21. 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.
- 5.22. Before the issue of the relevant construction certificate, the consent holder must ensure a report from a suitably qualified consultant is prepared and demonstrates, to the certifier's satisfaction, that any adaptable dwellings specified in the approved plans or supporting documentation comply with the provisions of AS 4299 – 'Adaptable Housing Standards'.
- 5.23. 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.
- 5.24. Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining property.
- 5.25. The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a. A heavy Duty VFC of maximum width of 10.5 metres at the property boundary with Wardell Road. The driveway location shall be adjusted to provide for 7m offset from the tangent point with the proposed laneway.
 - b. Drainage connection to street kerb, allow for 0.5m between proposed outlets. Outlet height cannot exceed 0.1m.
 - c. Removal of all redundant driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,

- d. Repair of any damage to the public road including the footway occurring during building works, and
- e. Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.
- f. The applicant is to provide detailed civil design plans to show pavement details, street trees, proposed awning above the trees, long sections, cross sections. The footpath pavement material and finish shall be to the satisfaction of Council Assets department.
- g. The civil design plans are to show boundary alignment levels and long sections for the proposed driveways from Wardell road and the proposed laneway
- h. The civil design plans are to show laneway long sections and cross sections consistent with driveway to basement and turntable. The cross sections shall demonstrate compliance with AS2890.2 for a HRV vehicle.
- i. The civil design plans shall demonstrate a suitable pavement for the new laneway, the ESA values adopted for the pavement shall be confirmed with Council. The type of pavement, thickness shall be to the satisfaction of Council assets team.

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

- 5.26. The basement of the development is located adjacent to a Council public road reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's public road.
- 5.27. 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,
- (iv) Require a work zone on the public road for the unloading and or loading of vehicles,
- (v) Pump concrete from within a public road,
- (vi) Stand a mobile crane within a public road,
- (vii) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road,
- (viii) The work is greater than \$25,000, and
- (ix) 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.

- 5.28. 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. The finished floor level at all entry points shall be consistent with the alignment levels.

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

Drawing number	Issue	Date	Prepared By
000, 101, 102, 103, 104, 105, 106, 106.1	Revision B	20-10-2022	Civil & Stormwater Engineering Services Pty Ltd

The above listed plans shall be amended to address the following:

1. The OSD design shall be amended to have unimpeded uniped overflow so that runoff can escape freely to the street frontage. The OSD design is to comply with AS3500.3.
 2. The outlets proposed shall be limited to 100mm high and be separated by 0.5m distance.
 3. All awnings drainage downpipes shall be recessed within the site property boundary and shall not extrude outside the property boundary.
 4. All waste collection areas shall be directed to the sewer system to Sydney Water requirements.
- 5.30. Plans of the proposed awnings to both street frontages shall be included in the plans submitted with the Construction Certificate. The awning shall:
- Be cantilevered over the footpath
 - provide a minimum clearance from the footpath pavement surface of between 3.2m and 4.2m
 - designed to accommodate for the future growth of canopy street trees as indicated in the detailed Landscape Plan to be submitted with the Construction Certificate
 - have a minimum 0.6m setback from the existing face of kerb
 - stepped with the slope of the pavement with steps not exceeding 500mm.
- 5.31. Details of all mechanical parking devices are to be submitted to the principal certifier. The proposed mechanical parking devices are to be integrated in the design as demonstrated on the plans to be submitted with the Construction Certificate.

- 5.32. 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.
- 5.33. 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 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.

Where a boom gate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom (or card controller system) at the car park entry, installed at least 4 metres recessed into the site, when measured from the property boundary with the street. The intercom is to be wired to all units.

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

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.

- 5.34. Before the issue of the relevant construction certificate, the consent holder must submit the following written evidence of service provider requirements to the certifier:
- a. a letter of consent from the relevant electricity provider demonstrating that satisfactory arrangements can be made for the installation and supply of electricity; and

- b. a response from the relevant water authority, as to whether the plans proposed to accompany the application for a construction certificate would affect any of the relevant water authority infrastructure, and whether further requirements need to be met; and
 - c. a letter of consent from the relevant telephone and broadband authority demonstrating that satisfactory arrangements can be made for the installation and supply of telephone and internet; and
 - d. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.
- 5.35. Prior to the issue of a Construction Certificate, the entire site (includes any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA. All recommendations contained within this report are to be implemented and a clearance certificate issued by an appropriately qualified Occupational Hygienist is to be submitted to Council prior to the issue of a Construction Certificate.
- 5.36. The Applicant is to submit to Council the manufacturer's specifications, design and operation of the turn table' facility to be installed in the ground floor and shall be illustrated on the plan to be submitted with the construction certificate application. The Applicant / Owner shall be responsible for the installation, operation and maintenance of the 'turn table' facility at no cost to Council.
- 5.37. A Construction Traffic Management Plan (CTMP) and Site Pedestrian Traffic Management Plan (SPTMP) shall be required to be submitted six months prior to the commencement of works on the site, for both demolition and construction phases of the development / project.

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

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

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the site;

- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the Transport for NSW (TfNSW – formerly RMS) requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

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

The applicant shall nominate the routes for approval by Council prior to commencement of any work on the site. All vehicles are to enter the on-street Works Zone adjacent to the site in a forward direction. U-turn and right-turn movements into the site, are generally not permitted.

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

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

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site. Any full road closure associated with mobilizing and de-mobilising of tower cranes or any other large construction equipment / vehicles is not covered under the approval of CTMP / SPTMP. The Applicant must submit a separate application for road closure at least 8 weeks prior to undertaking works, as this involves reporting and approval by the Canterbury Bankstown Traffic Committee.

In addition, a TfNSW Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including

roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 5.38. Access to the site during demolition and construction stages must be provided via the proposed laneway. The Construction Traffic Management Plan to form part of the Construction Certificate shall indicate compliance with this requirement.
- 5.39. Sight triangles must be marked and provided on the exit side of the laneway and driveway, in accordance with AS 2890.1:2004 Figure 3.3 – Minimum Sight Lines for Pedestrian Safety. The sight triangle shall extend 2m from the driveway edge along the front boundary in the proposed Laneway and 2.5m from the boundary along the driveway and is to be kept clear of any obstacles. This is to be illustrated on the plans submitted with the construction certificate application.
- 5.40. Works Zone, if required, is to be installed at the proposed Laneway, subject to the approval of the Canterbury Bankstown Traffic Committee. The Applicant must apply for the Works Zone in accordance with Council's requirements, including payment of the relevant fees & charges, three months prior to the commencement of the works on the site. This must be approved and paid for prior to issue of a Construction Certificate.

5.41. **Return bins**

Before the commencement of any works, all domestic waste bins servicing the site are to be returned to Council.

5.42. **Carting Route**

The certifier must not issue a Construction Certificate unless provided with detailed plans that form part of the construction certificate which identify that the bin carting route from the communal bin storage room to the waste collection point identified on stamped plans complies with the following requirements as well as the as well as the requirements of Council's "Waste Management Guide for New Developments":

- a. Is direct and less than 10.0 metres in length,
- b. Has a minimum width of 2.0 metres of hard surface;
- c. Is of non-slip material and free from obstacles and steps;
- d. Is not located within a driveway or carpark;
- e. Has a maximum grade of 1:30 (3%);
- f. Has a kerbside ramp installed at the collection point ; and
- g. Has compliance with Work, Health and Safety legislation and standards

Carting from bin room to collection point

- a. Has a minimum width of 2.0 metres of hard surface;
 - b. Is of non-slip material and free from obstacles and steps;
 - c. Has a maximum grade of 1:30 (3%)

5.43. Bulk Waste Room

The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the bulky waste storage room that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- b. Floors must be finished so as to be non-slip with a smooth and even surface;
- c. A designated room or enclosure and is to have a roof, with a minimum 2.1m unobstructed room height;
- d. Must be compatible with the overall design of the development;
- e. Walls must be constructed of solid impervious material;
- f. Ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- g. Walls, ceiling and floors must be finished in a light colour;
- h. An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
- i. A self-closing door openable from within the room;
- j. Must be constructed to prevent the entry of birds and vermin;
- k. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- l. Any doorways must be 2 metres wide and open outwards; and
- m. Designed to a minimum size of 9m².

5.44. Comply with Waste Management Plan

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

- a. Council's Waste Management Development Control Plan; and
- b. To provide the bin tug and bin lifting equipment upfront.

5.45. Bin Storage Area

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

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a floor waste gully connected to a Sydney Water approved drainage fitting;
- b. Floors must be finished so as to be non-slip with a smooth and even surface;
- c.
- d. A designated room or enclosure and is to have a roof, with a minimum 2.1m unobstructed room height. A minimum 2.7m unobstructed room height is required if bin lifting equipment is required;
- e. Must be compatible with the overall design of the development;
- f. Walls and floors must be constructed of solid impervious material;
- g. Ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- h. Walls, ceiling and floors must be finished in a light colour;
- i. An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
- j. A self-closing door openable from within the room;
- k. Must be constructed to prevent the entry of birds and vermin;
- l. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- m. Any doorways must be 2 metres wide and open outwards; and
- n. Designed to fit the following bin allocations:

Communal Bin Storage Room Construction – Residential 1

At least 17 m² designed to fit:

- 3 x 660L recycling bins;
- 3 x 660L garbage bins;

Communal Bin Storage Room Construction – Residential 2

At least 19m² and designed to fit:

- 3 x 660L recycling bins;
- 2 x 660L garbage bins;

Communal Bin Storage Room Construction – Retail outlets

At least 35 m² designed to fit:

- 7 x 1,100L recycling bins;
- 5 x 1,100L garbage bins;

Bin Storage Room Construction - Supermarket

At least 21m² designed to fit:

- 8 x 1,100L recycling bins (three times a week collection); and
- 6 X 1,100L garbage bins (three times a week collection).

5.46. Temporary Bin Storage

The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the temporary bin collection

area that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":

(For Collect and Return)

- a. Located on the ground floor;
- b. Within 10 metres from the nominated kerbside collection point;
- c. Any doorways a minimum width of 2.0 metres;
- d. Be located fully within the property;
- e. Be of sufficient size to accommodate all bins with additional room for manoeuvring (minimum aisle space of 1.5 metres and 15cm between bins);
- f. Be clearly separated from car parking bays, footpaths and landscaped areas.
- g. At least 110m² designed to fit: 22x1100L bins and 2x240L bins

5.47. Plans to indicate Bins

The construction certificate plans shall include details of all the waste bin storage areas. The bin storage area shall be located within the building.

5.48. Access for Waste Collection Vehicle to Loading Dock

Prior to the issuing of any construction certificate, the Certifier must receive written confirmation from Council, that Council has been provided to its satisfaction with the following:

- (a) detailed plans showing that the waste storage rooms will be capable of being accessed from the proposed laneway by a Heavy Rigid Vehicle (HRV) in accordance with AS2890.2-2004. and that a loading area is available for the vehicle when collecting waste that meets the following requirements:

Detailed plans, specifications and other relevant information showing that the turntable

- a. Complies with required dimensions for an HRV as per AS2890.2, including the diameter for the turntable and required clearance heights;
- b. Will always be available to waste collection vehicles;
- c. Will be installed, operated and serviced on an ongoing basis, at no cost to Council;
- d. Provide a second motor in case of a breakdown;
- e. Appropriate documentation shall be provided by the developer to show it has entered into a three (3) year turntable, bin lift and bin tug maintenance agreement at its own cost; and
- f. A contingency plan to be prepared before the Occupation Certificate is issued and include:
 - The use of a manual system is to be available in case of a breakdown; and
 - Breakdown assistance is to be provided within 4 hours.

5.49. Access for Waste Collection Vehicles to Proposed Laneway

Prior to the issue of any Construction Certificate the Certifier shall be satisfied that the plans demonstrate the access and egress route for the waste collection vehicle to the proposed public laneway shall:

- a. Comply with required dimensions for an HRV as per AS2890.2
- b. Allow bins to be moved safely to the nominated collection point
- c. Have a separation distance of 2m from tree branches, bus stops, street furniture and traffic devices such as roundabouts and speed humps; and
- d. Have a height clearance of 4.2m from overhanging tree branches, powerlines and other obstructions.

5.50. Detailed Landscape Plan

The PCA must be satisfied that detailed landscape plans have been included in the documents that form the Construction Certificate and that those detailed plans meet the following requirements:

- (a) provide a greater diversity of planting which is either or both: endemic and native
- (b) In landscape plan, No DWG ISO0278DA3 replace the plant AU (*Arbutus unedo*) Irish Strawberry Tree with a native plant referred to in the planting guidelines of Canterbury DCP
- (c) Improve the amenity of private and communal open space with a landscape design that provides appropriate shade from trees or structures;
- (d) Defines accessible and attractive routes through the communal open space and between buildings throughout the communal open space on Level 1
- (e) show a diverse range of trees, shrubs, and groundcovers using council-recommended planting guide B2.5 in Canterbury DCP
- (f) Include a Maintenance Schedule to cover a period of 12 months from the issue of an Occupation Certificate
- (g) Include details of an automatic watering system is to be installed in the landscape areas at the applicant's cost. Details including backflow prevention devices, location of irrigation lines and sprinklers, and control details are to be included. The system is to be installed in accordance with the manufacturer's specifications and current Sydney Water guidelines and to the PCAs satisfaction.
- (h) On-podium Planter Beds/Boxes are to comply with Control B2.3.5 Landscape Structure and Maintenance to Canterbury DCP. Dimensions of all planter boxes including soil depth and width to be indicated on detailed landscape plans and consistent with accommodating plant sizes as listed in (j) below.
- (i) Drainage management and waterproofing details of all planter boxes are to be indicated in the detailed Landscape Plan and compliant with schedule B2(C6) to Canterbury DCP. Minimum soil depth for planter boxes is to be as follows:
 300-450mm for turf and groundcovers
 450-600mm for small shrubs
 600 – 750mm for large shrubs
 750-900mm for small trees

(j) Minimum standards for plant sizes at planting are to be indicated in the detailed Landscape Plans complying with at least the following minimum sizes:

- Large trees such as figs (up to 16m diameter):
 - Minimum soil volume 150m³
 - Minimum soil depth 1.3m
 - Minimum soil area 10m x 10m area or equivalent.
- Medium trees (8m canopy diameter at maturity):
 - Minimum soil volume 35m³
 - Minimum soil depth 1m
 - Approximate soil area 6m x 6m or equivalent.
- Small trees (4m canopy diameter at maturity):
 - Minimum soil volume 9m³
 - Minimum soil depth 800mm

6. Conditions to be Satisfied prior to Demolition and Construction Work Commencing

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

a. Written notice must be issued to adjoining residents a minimum of seven days before the commencement of demolition advising of the commencement date,

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

c. Inspections being undertaken by Council including:

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

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

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

- 6.2. The building work in accordance with the development consent must not be commenced until:
- a. a construction certificate for the building work has been issued by the council or certifier, and
 - b. the person having benefit of the development consent has:
 - i. appointed a principal certifier for the building work, and
 - ii. notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case, and
 - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:

- i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifier of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building work.

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

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

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

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

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

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

- 6.5. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property no less than 14 days before the commencement of any site or building works.
- 6.6. Before the commencement of work, the consent holder must provide a temporary onsite toilet if access to existing toilets on site is not adequate/available. Temporary onsite toilet facilities must be installed and be adequately maintained throughout the construction period.
- 6.7. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 6.8. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 6.9. Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 6.10. A compliance certificate must be must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. An assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

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

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

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

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

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

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

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

Written notice is to be given to Council for inspection prior to demolition. Such written notice is to include the date when demolition work will commence and

details of the name, address, contact telephone number and licence number of the demolisher.

The following inspections must be undertaken by Council:

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

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

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

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

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

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

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

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

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

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

- 6.15. The existing traffic Kerb blister islands along Wardell along the frontage of the subject site must be removed and the pavement reinstated to Council Standard at the Applicant's cost. The applicant is to write to Council at least 6 months before obtaining Occupation Certificate, requesting that the Traffic

Unit prepare a report to Traffic Committee to gain approval for the removal of the Island.

7. Conditions to be Satisfied during Construction

- 7.1. The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 7.2. 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.
- 7.3. All waste management and delivery trips related to materials and movement of machinery and equipment to and from the site must be undertaken outside these times - **between 7am-10am and 5pm-8pm, Mon-Sat** to improve performance of the intersection at Homer Street and Wardell Road and safety of all road users. This applies to all demolition and construction activities.
- 7.4. An identification report by a registered surveyor must be submitted to the principal certifier prior to the ground floor slab being poured to verify the buildings wall setback and floor level conform to the approved plans.
- 7.5. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 7.6. If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 7.7. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a. protect and support the adjoining premises from possible damage from the excavation, and
 - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 7.8. 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.
- 7.9. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

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

- 7.10. Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.
Any waste material for disposal to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.
- 7.11. Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the Protection of the Environment Operations Act 1997 and Regulations.
- 7.12. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
- a. 7.00 am and 6.00 pm on Monday to Friday
 - b. 8.00am to 1.00pm Saturdays
 - c. 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.

- 7.13. 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.
- 7.14. 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.

- 7.15. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Canterbury Development Control Plan 2012 Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 7.16. The stormwater drainage system shall be constructed in accordance with Council's Canterbury Development Control Plan 2012 Part B5 and the engineering plans and details approved by the principal certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 7.17. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 7.18. 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).
- 7.19. 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.

- 7.20. 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.

- 7.21. 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.
- 7.22. 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.
- 7.23. 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.
- 7.24. All excavations must be kept free from the accumulation of water. Before approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with before approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.
- 7.25. Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).
- Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be included within the validation report; All imported fill must be compatible with the existing soil characteristics of the site.
- 7.26. If the Duty to Report contamination to the NSW EPA under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within two days of the notification to the NSW EPA.
- 7.27. All soils and material, liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and related guidelines, the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.

The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the Principal Certifying Authority before offsite disposal.

A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.

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

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

7.28. 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.

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

Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment. In this condition:

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

both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

7.30. Inspection for Waste – prior to ground floor slab

No work may be carried out to construct the ground floor slab unless the principal certifier is satisfied and provides evidence to Council of that satisfaction that the waste facilities within the basement comply with the specifications of the stamped plans. Council can be contacted on 9707 9000.

7.31. Inspection for Waste prior to first floor slab

No work may be carried out to construct the first floor slab unless the principal certifier is satisfied and provides evidence to Council of that satisfaction that the waste facilities within the ground floor comply with the specifications of the stamped plans. Council can be contacted on 9707 9000.

8. Conditions to be Satisfied prior to issue of a Subdivision Certificate

- 8.1. The subdivision application shall be submitted to Council and registered with NSW Land Registry services for the purpose of dedicating the relevant portion of the land adjoining the full length of the northern boundary of the site for the creation of a new public laneway. The newly created lot is to be dedicated to Canterbury Bankstown Council for the purpose of a public laneway.

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

- 8.2. An application and appropriate fees for the issue of a subdivision certificate shall be submitted to Council upon submission of the information referred to in condition 8.3 of this determination notice.

- 8.3. The following information must be submitted to Council via the NSW Planning Portal with an application for a subdivision certificate:

a. A digital electronic version of the linen plan; and

b. A complete set of the administration sheets provided as a digital electronic version. Please note that owners' signatures are not required on the administration sheets for endorsement; and

c. An unsigned digital electronic version of the Section 88B Instrument (if applicable). Please note that owners' signatures are not required on the Section 88B Instrument for endorsement; and

d. A copy of this determination notice as well as any approved modifications for this determination notice; and

e. Evidence that all conditions of consent relevant to the release of the subdivision certificate have been complied with; and

f. A compliance certificate (Section 73 of the Sydney Water Act 1994) from Sydney Water; and

g. A report prepared by a registered surveyor verifying that the reduced level (RL) of the following conform with the approved plans:

- The finished floor level at each slab level, and
- The height of any external wall; and
- The maximum level of roof structures / roof eaves overhangs; and
- The external wall and eave setbacks to the existing and proposed property boundaries; and

h. A Work-As-Executed plan(s) of the constructed site stormwater management system and/or stormwater detention system, prepared by a registered surveyor. The plan(s) must be obtained before the release of the linen plans.

The Work-As-Executed plan(s) must be shown on a copy of the approved stormwater drainage plan and must contain all information specified in the approved plans, Councils Standards, the relevant Australian Standards.

The Work-As-Executed information shall be shown in red on a copy of the approved plans, signed off and dated by a registered surveyor. The information shall be submitted to the hydraulic engineer prior to certification of the as-built drainage system; and

i. Certification from a professional engineer as defined in the National Construction Code (NCC) must be submitted to confirm that the constructed site stormwater management system and/or stormwater detention system as captured in the Work-As-Executed Plan(s) and from conducted site inspection(s) is in accordance with the approved plans, Councils Standards, Development Control Plan and the relevant Australian Standards; and

j. A copy of the work permit compliance certificate (where required); and

k. A copy of the final compliance certificate for the subdivision work (where required); and

An application for the issue of a subdivision certificate must be submitted to Council on the NSW Planning Portal and appropriate fees must be paid to Council at the time of submitting the information required by in this condition. The subdivision certificate must not be issued until the requirements of this condition have been satisfied.

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

Note: The location of the “On-Site Stormwater Detention System” shall be shown on the plan of subdivision where subdivision is proposed.

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

9 Conditions to be Satisfied prior to Issue of an Occupation Certificate.

- 9.1. The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 9.2. At least 6 months before obtaining Occupation Certificate, the applicant / developer is to request Council’s Traffic Unit to prepare a report to Traffic Committee to gain approval for the removal of the blister Island in Wardell Road and the Traffic Committee approval must be granted and the traffic island removed with kerb and gutter reinstated and footpath reconstructed in accordance with Council’s standards prior to the issue of an Occupation Certificate. All design cost, removal cost and reinstatement of the road conditions to Council Standard must be paid for by the applicant/developer.
- 9.3. The footpath along Homer Street and Wardell Road fronting the development site are to be re-constructed at the Applicant’s cost and to Council’s standards and specifications.
- 9.4. Any redundant driveway along Homer Street and Wardell Road fronting the development to be removed and reinstated with kerb and gutter and verge to match with the reconstructed footpath at the Applicant’s cost.
- 9.5. The carparking facilities and loading dock shall be inspected and certified by a suitably qualified engineer to comply with product specifications i.e. turntable, AS2890 parking series, and relevant Australian standards. A copy of the certification shall be provided to the PCA prior to the issue of an Occupation Certificate.
- 9.6. For the residential component of the development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.
- 9.7. An occupation certificate must not be issued until such time as the subdivision proposed as part of this development has been registered with NSW Land Registry Services and with Council.
- 9.8. The acoustic report submitted in support of this application prepared by Acoustic Noise & Vibration Solutions Pty Ltd, titled, ‘*Acoustic Report Part 1 – Traffic Noise Assessment (Noise Break In) Part 2 – Assessment of Environmental Noise Impact (Noise Break Out) for proposed development at No. 221-235 & 241-247A Homer Street & No. 208 Wardell Road, Earlwood*’,

reference number 2020-092 Rev 4, dated 30 November 2022 and all the recommendations stated within the report, form part of the development consent.

The Principal Certifying Authority shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above stated report have been completed and that relevant noise criteria have been satisfied prior to the issue of any Occupation Certificate. A copy of the report is to be submitted to Council prior to the issue of any Occupation Certificate.

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

Before the issue of an occupation certificate, the principal certifier must ensure that no portion of the approved structure, including gates and doors during opening and closing operations, provides for encroachment upon Council's footpath area.

- 9.10. 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'.

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

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

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

- 9.12. Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s) at 206 Wardell Road and 217 Homer Street Earlwood.

- 9.13. A section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the principal certifier before an occupation certificate will be issued.

- 9.14. 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.

- 9.15. Before the issue of an occupation certificate, the principal certifier must ensure that the car park is ventilated in accordance with the Building Code of Australia and, where necessary, Australian Standard AS 1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.
- 9.16. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 9.17. Before the issue of an occupation certificate, the consent holder must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.
- 9.18. A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed stormwater management system. The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Canterbury Development Control Plan 2012 Part B5.

The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the stormwater management system.

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

9.19. Confirmation of waste facilities

No occupation certificate may be issued until such time as written confirmation has been received from Council that all waste management facilities and associated access have been constructed in accordance with the requirements of this consent. The waste management facilities include the path of travel for all waste, from unit to point of waste collection, waste storage room sizing, access to water and sewer connections, finished materials, access and doorway dimensions, truck turntables, bin tugs and bin lifting equipment and signage for instructions on use and traffic management.

9.20. Waste Collection Agreement with Council – collect and return

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

9.21. Removal of Waste from Site

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.

9.22. No parking on Waste Collection Days

The consent holder is to obtain approval from the appropriate authority for the installation of a "No parking on waste collection days" (or similar) sign at the kerbside collection point at the designed waste collection point for the development.

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

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

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

- a. principal entrance/s and exits to each commercial premises and to residential lobbies;
- b. staircases in multilevel premises; and
- c. the area within a 10m radius external to the public entrance(s) to the residential lobbies and commercial premises; and
- d. the new public laneway.

Installation of the surveillance system is to ensure suitable and clearly visible signage is displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less

than 50mm in height with the words "Closed Circuit Television in use on these premises".

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

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

All CCTV recording devices and cameras shall be regularly checked to ensure the equipment is operating correctly. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable.

Where the system will not be functioning in full operating order for a period of longer than 24 hours the building manager is to notify the relevant Local Area Commander of the NSW Police.

All CCTV recording devices and cameras shall be operated at all times for residential lobbies and the rear laneway and for at least 1 hour before opening and closing times of the commercial premises.

The CCTV recording device shall be secured within the premises and only be accessible to the building manager and security contractors so as to maintain the integrity of the recorded footage. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

- 9.26. The building must be readily identified from the street with the allocated house numbers. An official "property numbering" letter is issued to the consent holder indicating the proposed numbering of the new development. House numbering without Council's written approval is not permitted.
- 9.27. Lighting must be provided to the residential lobbies, the entries to each commercial premises, the recessed areas of the fire egress points to the footpath, beneath the awning extending over the public footpath, the basement access and egress and throughout basement 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.
- 9.28. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill.

All lighting shall comply with the Interim Australian Standard AS 4282 – ‘The Control of the Obtrusive Effects of Outdoor Lighting’.

- 9.29. Before the issue of any occupation certificate a design verification from a qualified designer shall be submitted to the principal certifier. The design verification is a statement in which the qualified designer verifies that the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of SEPP No. 65.
- 9.30. The hebel panel fence along the northern side of the laneway and the external wall of the new building fronting the laneway are to be finished with a variety of materials, colours and finishes that discourage graffiti and also present a visually interesting and aesthetically appealing external face to both sides of the new laneway. Plans and schedules of materials, colours and finishes indicating the detailed design and treatment of the fence and the external wall are to be completed to the satisfaction of Council’s Development Manager and the works completed in accordance with the satisfactory scheme prior to the issue of the Occupation Certificate.

10. Conditions to be Satisfied for Ongoing Operations

- 10.1. No commercial garbage and recyclables collection shall occur between the hours and 6:00pm and 7:00am on any day.
All waste / delivery trips must be undertaken outside these times - **between 7am-10am and 5pm-8pm, Mon-Sat** to improve performance of the intersection at Homer Street and Wardell Road and safety of all road users. This applies to both prior to construction and operation of the development.

10.2. Waste Management Plan Implementation

The requirements of the approved Waste Management Plan prepared by Loucas Architects Project Ref. No Pn-0336 shall be complied with at all times that the approved development is being carried out.

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

10.4. Waste Policy

The development must be carried out in compliance with Council’s “Domestic Waste and Recycling Service Policy and Guideline”.

10.5. Waste Facilities Maintained

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

10.6. **Waste Storage Containers**

No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

10.7. **Collect and Return Service**

All commercial tenants must employ the collect and return services. No bins are to be presented or left on kerb. Commercial waste servicing must be via the shared loading dock and shall be in accordance with the '*Aldi Earlwood Loading Dock Management Plan*' submitted in support of this application dated 18 November 2021.

10.8. **Signage**

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

10.9. **Traffic Management**

Proposed traffic control measures such as advanced warning signs, barricades, warning lights - are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.

The Site operational traffic management plan shall be implement as specified for the turntable, loading dock, traffic devices and traffic signs.

10.10. **Code of Practice for Class 2 Items – Shopping Trolleys and other Sharing Service Items**

Commercial premises that provide trolleys must have a trolley restriction system in place to stop any trolley leaving the property boundaries. The new laws include harsher penalties for owners of shopping trolleys, unregistered cars and trailers. Trolleys must be branded & include contact details and operators with more than 25 shopping trolleys have 3 hours to collect unattended trolleys (outside the hours 11pm-7am).

10.11. **No music to be played in the outdoor communal open space areas at any time at any day.**

- 10.12. The loading dock is to be used in accordance with the '*Aldi Earlwood Loading Dock Management Plan*' submitted in support of this application dated 18 November 2021 and shall not to be used between 10:00pm and 7:00am on any day.
- 10.13. The Applicant / Owner shall be responsible for the installation, operation and maintenance of the 'turn table' facility within the loading dock at no cost to Council.
- 10.14. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 10.15. The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 10.16. Following occupation of the building/premises, should it be found that the measures recommended in the Acoustic Noise & Vibration Solutions Pty Ltd, titled, '*Acoustic Report Part 1 – Traffic Noise Assessment (Noise Break In) Part 2 – Assessment of Environmental Noise Impact (Noise Break Out) for proposed development at No. 221-235 & 241-247A Homer Street & No. 208 Wardell Road, Earlwood*', reference number 2020-092 Rev 4, dated 30 November 2022 are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 10.17. Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, '*Control of the obtrusive effects of outdoor lighting*', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.
- 10.18. The communal facilities must be available for the use all residents of the building and must be operated as common property on any strata subdivision of the site, with no exclusive use rights given.

- 10.19. No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats, caravans, camper trailers, trailers and the like.
- 10.20. No approval is granted or implied for the use of any roof element for any purpose other than for gaining access to carry out maintenance or repairs.
- 10.21. The on-site stormwater detention storage system within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.
- 10.22. During occupation and ongoing use of the building, the consent holder must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).
- 10.23. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

-END-

Canterbury Bankstown Local Planning Panel - 03 April 2023

ITEM 2	65 Victor Avenue, Picnic Point
	Construction of a two (2) storey centre-based child care facility for 60 children with basement parking and associated landscaping.
FILE	DA-310/2022 - Revesby Ward
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	3 May 2022
APPLICANT	Anba Wanis Pty Ltd
OWNERS	Mina Antowan Hanna and Marian Hanna
ESTIMATED VALUE	\$1,639,275.00
AUTHOR	Planning

REPORT

This matter is reported to Council's Local Planning Panel in accordance with Item 2, Schedule 2 of the Local Planning Panels Direction – Development Applications, issued by the Minister for Planning under section 9.1 of the Environmental Planning & Assessment Act 1979 on 30 June 2020 for contentious developments, as the application has received in excess of ten (10) unique submissions by way of objection.

Development Application No. DA-310/2022 proposes the construction of a two (2) storey centre-based child care facility for 60 children with one (1) level basement parking and associated landscaping. Demolition will be sought under separate approval.

The application has been assessed against the relevant provisions of Education and Care Services National Regulations, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, NSW Child Care Planning Guideline, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015 as well as the Draft Canterbury Bankstown Local Environmental Plan. The development was

found to have complied with all the applicable aims, controls and standards that are contained within the abovementioned legislation.

The application was advertised and neighbour-notified in accordance with Council's Community Participation Plan 2019 for a period of 21 days concluding on 8 June 2022.

Twenty (20) submissions by way of objection and one (1) submission in support of the development have been received. The main concerns that were raised in the objection submissions related to the following:

- On-street parking (lack of existing and generation of further parking scarcity);
- Traffic resulting from trips to/from the development;
- Construction noise impacts on nearby properties;
- Acoustic impacts on adjoining properties;
- Suitability of the site for the development of the scale proposed; and
- Demand for the development with regard to the presence of other childcare centre facilities within the local area.

The above list is not exhaustive of all matters raised within the objecting submissions. These have been addressed in further detail within this report.

Notwithstanding the number of objections received by Council it is considered that this development is worthy of support owing to its permissibility on the site, compliance with all applicable development standards and development controls and its demonstration of a suitable planning outcome as established within this report.

POLICY IMPACT

FINANCIAL IMPACT

The matter has no direct financial implications.

RECOMMENDATION

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

ATTACHMENTS

- A. Assessment Report
- B. Conditions of Consent

DA-310/2022 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 65 Victor Avenue, Picnic Point. The site is a regular, rectangular, shaped allotment that is zoned R2 Low Density Residential under Bankstown Local Environmental Plan 2015.

The site is identified as Lot 4 in DP 261554 and has a lot area of 937m² with a frontage to Victor Avenue of 20.115 metres forming the lot's western boundary. Surrounding the site are dwelling houses and dual occupancy developments, in keeping with the expected development typologies of the R2 Low Density Residential zone.

The site contains a single storey tile-roof cottage, detached outbuilding and in-ground swimming pool. The site is absent of significant vegetation, with no trees currently existing on site. The site contains a cross-fall from north to south of approximately 500mm though remains consistent in level through the depth of the allotment from east to west. Council's road reserve forward of the front property boundary contains a drainage lintel and a power pole. The site is shown below, highlighted in light blue:



(Source: NearMaps 2022)

The site surrounds are shown below, with the site highlighted in light blue:



(Source: NearMaps 2022)

PROPOSED DEVELOPMENT

The application was submitted proposing demolition of the site and construction of a 63-place child care centre. During the assessment process the application was amended to remove the request for demolition and to reduce the number of play spaces.

The development application now proposes the construction of a two (2) storey childcare centre, accommodating 60 children, over one (1) level of basement parking.

The specifics of the development are as follows:

Level	Description
Basement	<ul style="list-style-type: none"> - 15 car parking spaces (inclusive of one (1) accessible space). This includes seven (7) visitor spaces and eight (8) staff spaces; - Laundry; - Bin room; - Lift core; - Two (2) sets of fire stairs; and - Four (4) bicycle parking spaces.

Level	Description
Ground	<ul style="list-style-type: none"> - Three (3) indoor and one (1) outdoor play spaces dedicated to 0-2, 2-3 and 3-5 year old's; - Staff facilities, including reception and a meeting room; - Lift core; and - Two (2) sets of fire stairs.
First	<ul style="list-style-type: none"> - An indoor and outdoor playroom for 3-5 year old's; - Staff facilities, including kitchen and management; - Lift core; and - Two (2) set of fire stairs.

The specifics of the operations of the development are as follows:

Operation	Description
Number of children	- 60 children of ages between 0 and 5 years old.
Staffing	- Nine (9) staff, consistent with requirements / regulations
Hours	- Monday to Friday from 7:00am to 6:00pm

Statutory Considerations

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

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Education and Care Services National Regulations
- NSW Child Care Planning Guideline
- Bankstown Local Environmental Plan 2015 (BLEP 2015)
- Draft Canterbury Bankstown Local Environmental Plan 2020
- 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

Chapter 2 Vegetation in non-rural areas

The aims of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 are to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the

preservation of trees and other vegetation. The SEPP applies to the development site, but the application does not propose demolition or the removal of any non-exempt vegetation. It is considered that the proposal satisfies the provisions of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Chapter 6 Bushland in urban areas

Note: this Chapter of the SEPP has been removed as of 21 November 2022 (after this application was lodged) with the provisions being moved to Clause 5.23 of Bankstown Local Environmental Plan 2015. A discussion of these provisions follows within this report.

Chapter 11 Georges Rivers Catchment

The site is located within the catchment area of the Georges River. Chapter 11 contains a series of general and specific planning principles which are to be taken into consideration in the consideration of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims and objectives of Chapter 11, as well as the Planning Principles as set out in Part 11.2

Note: this Chapter of the SEPP was amended and included within Chapter 6 of the SEPP, titled Water catchments. The application remains consistent with the relevant provisions of Chapter 6.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

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

The application was accompanied by a Detailed (Stage 2) Site Investigation which found that the site has a history of agricultural uses in addition to the presence of asbestos. The investigation found that the contaminants on site have the potential to pose a risk to human receptors but that the site can be made suitable for the proposed development subject to the recommended remediation works. Conditions of consent have been recommended to be undertaken in accordance with the submitted Remediation Action Plan (RAP) before construction works commence.

In accordance with the requirement to comply with the submitted RAP, the subject site is able to be made suitable for the proposed development and therefore satisfies the provisions of Chapter 4, Section 4.6.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 3 in this SEPP applies to development the purpose of an early education and child care facility. The development is consistent with the aims and standards of the SEPP, with particular regard to Part 3.3 which provides specific controls for Councils to consider when assessing and determining applications for centre based child care facilities, including:

Standard	Requirement	Comment	Complies
3.22	This section applies to development for the purpose of a centre-based child care facility if:		
	The floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations ,	The proposed facility has 196.2m ² of indoor unencumbered space which complies with the 195m ² required by the Regulations. This application does not required concurrence.	N/A
	The outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.	The proposed facility has 426.8m ² of outdoor space which complies with the 420m ² required by the Regulations. This application does not required concurrence.	N/A
3.23	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i> , in relation to the proposed development.	As outlined below, the proposed facility has been assessed against this Regulation and complies.	Y
3.24	The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in a prescribed zone—	The stated objective of this clause is to consider: <i>land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting a centre-based child care facility</i>	
	a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses,	The proposed facility does not adjoin or is in proximity to restricted premises	Y

Standard	Requirement	Comment	Complies
	b) whether the proposed development has the potential to restrict the operation of existing industrial land uses,	No adjoining land is zoned Industrial. The nearest industrially zoned land is located approximately 3km from the site and the childcare facility is not expected to restrict development of that land.	Y
3.25	Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1	The proposed facility's FSR is 0.4:1.	Y
3.26	a) location—the development may be located at any distance from an existing or proposed early education and care facility,	The development site is located approximately 90 metres from the nearest operational child care centre in Kennedy street, which runs parallel to Victor Avenue. This distance is measured as a straight-line distance. The walking distance to this facility is in excess of 800m, so it cannot be said that the facilities are proximate.	Y
	b) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations,	The proposed facility requires 195m ² of indoor unencumbered space and provides 196.2m ² as well as 420m ² of outdoor unencumbered space and provides 426.8m ² .	Y
	c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,	The site enjoys a frontage to Victor St of 20.115m and an overall site area of 937m ² . The development is compliant with the planning provisions for this type of facility, which demonstrates that the site is of suitable size and width to accommodate the proposal.	Y

Standard	Requirement	Comment	Complies
	d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	The proposed external colours and finishes are contemporary.	Y
3.26	This clause requires the development controls in Councils DCP not override the stated provisions in the SEPP.	The DCP does not contain controls which override the SEPP	Y

The proposed centre-based child care facility is compliant with the relevant controls found in the SEPP.

Education and Care Services National Regulations

The following table provides a summary of the key controls:

Standard	Requirement	Comment	Complies
Cl. 107 Space Requirements – indoor space	At least 3.25 square metres of unencumbered indoor space for each child being cared for by the centre which requires 195m ² for this facility.	196.2m ² of indoor play space on the ground and first floors allows for 60 places. 60 places proposed.	Y
Cl. 108 Space Requirements – outdoor space	At least 7 square metres of unencumbered outdoor space for each child being cared for by the centre which requires 420m ² for this facility.	426.8m ² of outdoor play space (inclusive of accessible deep soil zones located along the rear setback) provided allows for 60 places. 60 places proposed.	Y
Cl. 109 Toilet and hygiene facilities	Adequate and developmentally and age-appropriate toilet, washing and drying facilities are provided	Children's toilet facilities are located immediately adjacent to play spaces, with ability to provide surveillance through windows into the facilities.	Y
Cl. 110 Ventilation and natural light	Play spaces are to be well-ventilated and provided with natural light	Indoor play spaces are naturally ventilated and provided with adequate natural light through north or east-facing windows (including through a void).	Y
Cl. 113 Outdoor space—natural environment	Outdoor spaces provided at the education and care service premises are to allow children to explore and experience the natural environment	Opportunities with natural interaction are provided on the ground level through the deep soil landscaped side and rear setbacks. Planter boxes for interaction with natural materials have been provided on the first floor play space.	Y

Standard	Requirement	Comment	Complies												
Cl. 114 Outdoor space—shade	Outdoor spaces provided at the education and care service premises are to include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun	Shading elements are provided for both outdoor play spaces	Y												
Cl. 123 Educator to child ratios—centre-based services	<ul style="list-style-type: none">For children from birth to 24 months of age—1 educator to 4 children;For children over 24 months and less than 36 months of age—1 educator to 5 children;For children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children;	<table><tr><th>Age</th><th>Ratio</th><th>Staff Provided</th></tr><tr><td>0 – 24</td><td>1:4</td><td>2</td></tr><tr><td>24 – 36</td><td>1:5</td><td>3</td></tr><tr><td>36 – preschool</td><td>1:11</td><td>4</td></tr></table>	Age	Ratio	Staff Provided	0 – 24	1:4	2	24 – 36	1:5	3	36 – preschool	1:11	4	Y
Age	Ratio	Staff Provided													
0 – 24	1:4	2													
24 – 36	1:5	3													
36 – preschool	1:11	4													

The development complies with all applicable standards and controls of the National Regulations.

NSW Child Care Planning Guideline

The development complies with all applicable standards and controls of the Guidelines, with particular regard to the suitability of the design within the R2 Low-Density Residential zone. The assessment has considered the suitability of the proposed acoustic barriers, the consistency of the design with the character of the area, the bulk and scale of the development, setbacks, accessibility, landscaping, visual and acoustic privacy of residents on adjoining sites, hours of operation, traffic and parking, indoor and outdoor play spaces, fencing and shading.

Bankstown Local Environmental Plan 2015

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

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies

Clause 2.3 – Zone objectives and Land Use Table

Clause 4.3 – Height of buildings

Clause 4.4 – Floor space ratio

Clause 4.5 – Calculation of floor space ratio and site area

Clause 6.2 – Earthworks

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

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

Standard	Requirement	Comment	Complies
Clauses 2.1-2.3 – Zoning	The site is zoned R2 Low Density Residential	Child care centres are permitted with consent in the R2 Low Density Residential zone.	Y
Clause 4.3 – Height of buildings	Max. 9 metres	Max. 8.6 metre building height.	Y
Clause 4.4 – Floor space ratio	Max. 0.40:1 (for non-residential development)	0.40:1 FSR proposed (387.1m ² / 937.0m ²).	Y
6.2 Earthworks	To determine if works proposed will have a detrimental impact on the environmental functions and processes, neighbouring uses, cultural or heritage items of features of surrounding land.	The purpose of this clause is the assess the impact that proposed earthworks (including excavation) might have on the local environment, including on neighbouring properties. The proposed earthworks are proportionate to the scale of the development. To assist in assessing the impact of the proposal the development application was accompanied by a Geotechnical Report which recommended dilapidation reports be undertaken for adjoining properties (which have been included within recommended conditions of consent), that specific measures be undertaken during excavation works and that subject to these requirements, the development will not pose detrimental impacts to the surrounding land.	Y
Clause 6.8 – Special provisions applying to centre-based child care facilities	Consent must not be granted for the purpose of a centre-based child care facility on land if the vehicular access to that land is from: a. a classified road, or b. a cul-de-sac or road where the carriageway between kerbs is less than 10 metres.	Victor Avenue is not a classified road and is not a cul-de-sac. The width of Victor Avenue measured between kerbs is exactly 10.0 metres, satisfying the provisions of this clause.	Y

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

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. The Draft CBLEP 2020 has been publicly exhibited and adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is 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, controls and provisions as contained in the draft instrument (being identical to the provisions contained in the current applicable local environmental plan).

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

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


Part B5 – Parking

A rate of 1 car parking space per 4 childcare places applies to the development. With 60 places within the centre, there is a requirement for 15 car parking spaces. The development provides for these 15 car parking spaces within the basement which have been assessed as compliant with Australian Standard AS2890 Parking facilities- Off Street car parking by Council's Development Engineer.

Part B6 – Child Care Centres

The development complies with all applicable controls of Part B6 – Child Care Centres. The following table provides a summary of the assessment of the development application against the primary numerical controls contained in Part B6 – Child Care Centres.

Standard	Requirement	Comment	Complies
3.3 Storey Limit	The storey limit for child care centres is 2 storeys.	2 storeys proposed.	Y
3.6 Setbacks	5.5 metre front setback and 1.5 metre side setbacks	5.5 metre front setback and 1.5 metre side setbacks achieved.	Y
3.10 Deep Soil Zones	2-metre deep soil zone in the front setback and 1.5 metres on side and rear setbacks	Deep soil zones are provided around the perimeter of the site, with an area 5.5 metres wide at the front of the site and 1.5 metres wide setbacks to the site and rear. The deep soil area within the front setback is compromised by an 'in-ground ponding OSD' which Council's Development Engineer has assessed as being able to accommodate for a canopy tree to sit atop the tank, providing a consistent front setback with the expected character of the area.	Y

Standard	Requirement	Comment	Complies
		The landscape plan proposes to establish one canopy tree within the deep soil area at the front of the facility as well a second canopy tree within an internal courtyard.	
3.12 Access	Accessible design in accordance with BCA and AS 1428	Centre designed to be accessible, with step-free access provided to all three levels via a central lift. The centre provides accessible car parking within the basement level in accordance with AS2890.	Y
4.3 Access to Sunlight	Living area and private open space of adjoining properties retain compliance with BDCP 2015 with regard to solar access.	<p>Due the east-west orientation of the site, the shadow cast by the proposed facility will fall onto the southern adjoining property at 67 Victor St.</p> <p>The DCP requires the adjoining properties receive at least three hours of solar access to a living area between 9am and 4pm on the Winter Solstice. As well as at least three hours solar access to their private open space during the Equinox. The rear elevation of no. 67 Victor Avenue contains that dwelling's living room windows and receives solar access from 9am to 12pm. This will not be impacted by the proposed development. The rear elevation receiving sunlight is shown below highlighted in yellow:</p>  <p>The private open space on the adjoining property maintains its solar access at the equinoxes as the two-storey component of the development sits towards the front of the property,</p>	

Standard	Requirement	Comment	Complies
		providing for minimal shadowing impacts to the rear.	
4.6 – 4.7 Building Design	Development for the purpose of new buildings must incorporate architectural elements to articulate the building form and avoid large expanses of blank walls and provide an active street frontage.	The development has an appearance in keeping with more recent contemporary architecture styles approved for dwelling and dual occupancy developments within the local area, being limited to two storeys and providing windows on all elevations for activation and articulation.	Y
4.10 Front Fences	The maximum fence height for front fences is 1.8 metres.	None proposed	Y

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

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

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

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

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

The proposed development will not result in unreasonable adverse environmental, social, or economic impacts on the locality. As detailed in this report, the proposed development addresses all applicable development standards and controls, is a permissible form of development. In addition, recommended conditions of consent will place a responsibility on the Centre to manage the business in a way that limits the intensity of this non-residential use in the residential zone. 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 proposed development responds to the applicable development standards and controls contained in SEPP (Transport and Infrastructure) 2021 the Child Care Planning Guideline, BLEP 2015 and BDCP 2015. The proposed development results in a built form for the site, which is not inconsistent with the existing and desired future character of the area, and the assessment of the application has not identified any unreasonable or adverse impacts on the surrounding residential properties or the broader locality.

The zone objectives of the LEP specifically permit non- residential development in the low density residential zone.

The specific wording of Clause 1.2(d) of LEP 2015 does not require a development to be compatible with immediately surrounding development, but rather requires compatibility "with the prevailing suburban character and amenity of residential areas of Bankstown". The relevant planning controls for this form of development found in State Environmental Planning Policy (Transport and Infrastructure) 2021 also contemplate certain non-residential uses, such as the current proposal, as being suitable land uses for the low density residential zone.

The character of the area contains a mix of land uses, including residential development of varying densities, and non- residential uses such as schools, places of worship, community facilities, child care centres and the like.

The proposal involves the use of the site for land use which is more intense than surrounding low density residential development, but a use which is consistent with the purpose for which the site was zoned. Comparatively, the development has an overall floor space ratio of 0.40:1, whereas the adjoining residential areas would have the capacity to support floor space ratios of 0.5:1. Given the site's zoning, it is likely that any permitted form of development will be of a kind that has a different level of privacy, acoustic, traffic and visual impacts to typical residential development. However, the LEP does not require all these impacts to be eliminated.

The assessment contained within previous and later sections of this report suggest that the level of impact of the proposal is acceptable and on these grounds, it is considered that the development is not incompatible with the prevailing suburban character and amenity of the locality of the development site, and that the site is suitable to accommodate the proposed development.

Submissions [section 4.15(1)(d)]

The application was advertised for a period of 21 days concluding on 8 June 2022. Twenty (20) unique submissions by way of objection were received during this period which relate to the following matters:

- A. *Submission:* Reduction in on-street parking.
Response: The development will not result in a reduction in on-street car parking spaces as it will retain two (2) spaces in front of the property. These parking spaces are to be allocated for drop-off and pick-up purposes during operational hours of the centre. They will be able to be used for resident / visitor parking during non-operational hours as with the other spaces along Victor Avenue.
- B. *Submission:* Increase in traffic.
Response: The application was accompanied with a traffic report which was reviewed by Council's Traffic unit as being suitable and demonstrating that the centre will not reduce service levels (or traffic flow) for streets and intersections within the vicinity of the development. In short, Victor Avenue and the neighbouring streets have sufficient capacity to accommodate for

additional vehicle movements generated by the proposed development while maintaining current traffic conditions.

- C. *Submission:* Safety of pedestrians.
Response: All drivers are required to adhere to NSW road rules with regard to pedestrian safety. The development has been designed to allow for adequate provisions of pedestrian sight lines at the intersection of the footpath and driveway to allow drivers to see approaching pedestrians. The basement is designed to allow for forward entry and exit to reduce the risk of pedestrians conflicts with vehicles as they enter or leave the facility.
- D. *Submission:* Noise and privacy impacts.
Response: The application was accompanied with an acoustic report which has been reviewed by Council's Environmental Health Officer and was found to be consistent with relevant Australian Standards which protects neighbours from unreasonable noise. In particular, the development will be accompanied by an acoustic boundary fence which will limit noise emissions to within suitable levels for a residential zone during operational hours.
- The development has been assessed as maintaining a suitable level of visual privacy for residents on adjoining sites in accordance with the provisions in Part B6 in the Bankstown Development Control Plan 2015 which requires the concentrating potential sightlines towards the centre of the property and providing glass block windows along the side elevations in order to reduce opportunities to overlook neighbours from within the facility. Fencing and screening is provided along side elevations for all outdoor areas.
- E. *Submission:* Suitability of the site for the development.
Response: In 2021 the NSW Government introduced controls for centre based child care facilities into State Environmental Planning Policy (Transport and Infrastructure) 2021 which restricts the ability to prohibit or restrict child care centres from sites based on demand for a facility, size of the site or intensity of the development (subject to compliance with relevant development controls). As is demonstrated through this report, the proposal complies with all applicable development standards and controls which aids demonstrating its suitability for the site.
- F. *Submission:* Local demand for further child care centres.
Response: As indicated through the response to Submission matter E, Council is unable to consider the demand for childcare centres within its assessment.
- G. *Submission:* Insufficient notification timelines.
Response: Council advertised this application to the public by publishing a notice in local newspapers for 21 days and also writing to nearby residents and inviting them to inspect the application (published on the NSW Planning Portal) and inform Council if they have any concerns in accordance with Council's published community participation plan.

- H. *Submission:* Impacts on sleep for shift workers.
Response: The application was submitted with an acoustic report which has been reviewed by Council's Environmental Health Officer as being consistent with relevant Australian Standards with regard to the protection of acoustic amenity for residents on adjoining properties. Appropriate conditions to protect amenity have been recommended.
- I. *Submission:* Design of the centre is not in keeping with the character of the area.
Response: Earlier comments in this report indicated that a range of residential and non- residential development types are permitted within the low density residential zone. Each of these uses will have certain inherent design requirements and associated visual appearances and impacts on character. Importantly, child care centre developments are required to have a lower floor space ratio than other residential development. The design of the centre is considered to be contemporary and in keeping with the expected built form of new developments within the vicinity, which propose contemporary or modern design features for two-storey developments, some of which provide basement levels.
- J. *Submission:* Scale / intensity of the centre is not in keeping with the character of the area.
Response: The subject site and surrounding area is zoned low density and whilst a centre based child care centre is a more intensive use than other permissible land uses in this zone, such as dwellings or dual occupancies, the facility is permissible and complies with relevant wall and building height standards. The controls allows for a centre-based child care facilities to have a maximum Floor Space Ratio (being the amount of floor area per square metre of site area) at 0.4:1. The proposed facility has a FSR of 0.4:1 which complies. Typically, most recently built residential developments in this area have a FSR of 0.5:1.
- K. *Submission:* Negative economic impacts from the centre.
Response: No evidence has been submitted to demonstrate that approval of the development application would result in adverse economic impacts on the locality. Providing a child care centre to service the locality could also be seen as having a positive economic outcome.
- L. *Submission:* Impacts from demolition and construction.
Response: The application was lodged seeking authorisation for demolition of structures on site, however during the assessment process the applicant amended the proposal to remove demolition from the proposal. Separate authorisation is required for demolition except where considered exempt under relevant legislation.
- M. *Submission:* Reports accompanying the application cannot be relied upon as their findings have been impacted by the COVID-19 pandemic due to its impacts on local travel and movement.

Response: Despite potential impacts from the COVID-19 pandemic, the reports have been assessed by Council's expert staff as appropriate and supportable noting that the recommendations of the report are consistent with the expected impacts of childcare centres with regard to traffic and noise generation. These impacts are assessed against baseline readings which do not take into account reduced movements during the COVID-19 pandemic.

N. *Submission:* Suitability of a basement for child care centres.

Response: Basements are not prohibited for child care centres within the Bankstown Development Control Plan 2015, nor are they prohibited for other permitted forms of development, such as dwellings and dual occupancies. Basements for childcare centres can be considered suitable where the application demonstrates that the inclusion of a basement level will not lead to adverse amenity impacts on adjoining properties such as privacy concerns from raised floor levels or undue impacts resulting from excavation. This application has demonstrated through adequate treatment which restricts sightlines from the ground and upper floors that potential privacy impacts are not exacerbated by the basement and through the submission of a geotechnical report that a basement excavation can be done safely.

It is also considered that the inclusion of a basement lessens potential impacts on adjoining properties by removing the need for at-grade parking within the front setback which would be inconsistent with the prevailing streetscape of the residential area.

O. *Submission:* Impacts from parents not using the basement.

Response: A condition of consent has been recommended requiring that the ongoing Plan of Management for the facility direct parents to utilise the basement car parking facility for drop-off and pick-up trips to the site.

P. *Submission:* Noise and amenity impacts from private waste collection.

Response: The introduction of a commercial activity in Victor Avenue does require its waste be collected by a commercial contractor (as opposed to Council collecting it, as it does for residents). However, the need for one site within the street to require its own waste collection (as opposed to Council collecting it as it does for residential waste) does not pose a such an impact on local amenity (e.g.: from increased noise or traffic flow) that would cause a significant or detrimental reduction in local amenity that would require the application be refused.

Q. *Submission:* Noise impacts from mechanical ventilation.

Response: Conditions of consent relating to acoustic amenity of adjoining residents as a result of any mechanical ventilation are imposed on the development, being condition 6.4.

R. *Submission:* Effectiveness of acoustic barriers.

Response: The acoustic report submitted with the application was assessed by Council's Environmental Health Officer as suitable with regard to Australian Standards for acoustic amenity protection. In particular, acoustic fencing is

proposed along the northern, eastern and southern property boundaries behind the front building line, achieving a maximum height of 2.1 metres above the finished floor level of the outdoor play area when viewed from adjoining properties (there is allowance for a 45-degree angle attachment to the top of fence, pointing inwards to the development site which would not be visible to a person standing outside the site at floor level). It is therefore considered that the development is suitably designed to mitigate potential acoustic impacts on adjoining properties.

- S. *Submission:* Capacity of local water and sewerage systems.
Response: Public water supply and sewerage infrastructure are controlled and operated by Sydney Water. Certain types of developments, including child care centres, are required to obtain a Section 73 Certificate from Sydney Water prior to the issue of a construction certificate. A condition will be imposed for a s73 certificate to be obtained from Sydney Water to confirm that the site has suitable water and sewer services to cater for the proposal.
- T. *Submission:* Need for a dilapidation report to extend beyond immediate adjoining properties.
Response: In accordance with standard practice, a dilapidation report is required for all adjoining properties (nos. 63 and 67 Victor Avenue and no. 24 Apex Avenue). Due to the limited nature of the excavation proposed (one basement level) and the distance from the proposed earthworks to dwellings that do not immediately adjoin the site, the need for further dilapidation reports to be prepared cannot be justified (where excavation to this extent is proposed).
- U. *Submission:* Compliance with BLEP 2015.
Response: The development has been assessed as compliant with all applicable standards and controls of BLEP 2015, with particular regard to the maximum permitted wall and building heights of 7 and 9 metres respectively and the restriction of a 0.40:1 maximum floor-space-ratio for non-residential developments within a residential zone.
- V. *Submission:* Compliance with indoor and outdoor play spaces.
Response: The requirement for a sixty-place child care centre is that it accommodates 195m² of indoor play area and 420m² of outdoor play area. The proposed centre accommodates a compliant 196.2m² of indoor play area and 426.8m² of outdoor play area demonstrating compliance with regard to the minimum space per child ratios.
- W. *Submission:* Impact on property values.
Response: No evidence has been submitted with regard to any potential impact on property values as a result of this development.
- X. *Submission:* Impact on amenity of residents in the neighbourhood.
Response: The introduction of a centre based child care facility into what is currently solely a residential area represents a change to the existing makeup of the area. However, a range of non- residential uses are contemplated by

the planning controls and child care centres are permissible in low density residential zones and the proposed facility is compliant with its applicable controls. Notwithstanding that the proposal is compliant with the relevant controls, Council is also obliged to consider the amenity impacts from the proposed facility. In this regard Council assessed the application in light of the noise it might emit, the traffic flow impacts and its general impact. In all of these matters the proposal was found to be acceptable and worthy of support within a residential area.

- Y. *Submission:* Animosity between centre staff and local residents.
Response: The manner in which people may interact with each other is not a matter for a development application to resolve but that there is no evidence to suggest a level of antisocial behavior associated with child care centres,
- Z. *Submission:* Noise and amenity disruptions from increase truck movements on street.
Response: Truck movements resulting from demolition and construction related activities are unavoidable for any development type. While hours of demolition, construction and operations may be limited through development consents, Council has no authority to either limit the number of trucks or restrict access hours for public streets to vehicles servicing sites. Conditions of consent requiring the protection of acoustic, vibration, smell and other amenity matters will be imposed for operations of the development.
- AA. *Submission:* Quality of street pavement.
Response: It is considered that the development (construction and operation of a two-storey with one basement level childcare centre) will not adversely impact the quality of the street pavement outside of what can be expected from general usage of the street network.
- BB. *Submission:* Lack of local support for centre.
Response: Support for or against a development is considered during the assessment process, however, it forms part of a larger assessment against relevant planning controls and policies. Each submission to this application has been reviewed and considered during the assessment process and while support for or against a development may result in changes to a proposal, the proposal is determined based on its compliance with the applicable controls and the permissibility of the development for the site. In this instance, Council's assessment has found no identified unreasonable amenity impacts on the residents within the local area and also addresses a known need for childcare centres and therefore is considered worthy of support.
- CC. *Submission:* Shadowing impacts.
Response: Due the east-west orientation of the site, the shadow cast by the proposed facility will fall onto the southern adjoining property. The DCP requires the adjoining properties receive at least three hours of solar access between 9am and 4pm on the Winter Solstice, as well as at least three hours solar access to their private open space during the Equinox. The

southern adjoining property will retain this level of solar access and comply with Council controls.

DD. Submission: Impacts on mental health of adjoining residents.

Response: The application has been assessed as resulting in a suitable outcome for the development site, limiting noise and vehicle impacts on adjoining properties to acceptable levels. Conditions of consent have been recommended to ensure that the amenity of the neighbours and neighbourhood in general is not affected by the operations of the centre .

EE. Submission: Insufficient street width.

Response: The development site complies with the minimum required street width found within Clause 6.8 of Bankstown Local Environmental Plan 2015 (being no less than 10 metres in width when measured from the inside face of the kerbs).

One submission in favour of the proposal was received by Council, citing demand for the facility and the author's support for the design of the centre.

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

As demonstrated within this report it is considered that the development satisfies the public interest through the development of a childcare centre without providing unreasonable amenity impacts on residents within the local area or immediate vicinity. In particular, the development complies with each development standard applicable within BLEP 2015 and each control contained within BDCP 2015 Part B6, demonstrating that the facility has been designed to be responsive to the expected outcomes for a childcare centre in the R2 Low Density Residential zone.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of s4.15(1) of the *Environmental Planning and Assessment Act 1979 and relevant State and local planning controls*. The application demonstrates compliance with all applicable development standards and controls, is permissible within the zone and has been assessed as not generating undue impacts on residential receptors within the locality. Concerns raised by the community have been addressed within this report and while the concerns are worthy of consideration, it is not considered that the matters raised result in an unsuitable or inappropriate development. The assessment above has found that the proposed development is worthy of support, subject to the conditions attached to this report.

RECOMMENDATION

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

SCHEDULE 1 – CONDITIONS

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

1. Approved Development.

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

Plan Number	Plan Name	Dated	Revision	Prepared By
DA02.01	Site Plan	02.02.23	C	ArtMade Architects
DA03.01	Basement Floor Plan	27.10.22	B	ArtMade Architects
DA03.02	Floor Plans	02.02.23	C	ArtMade Architects
DA04.01	External Elevations	27.10.22	B	ArtMade Architects
DA05.01	Sections & External Finishes	02.02.23	C	ArtMade Architects

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

- 1.2. The Hazardous Material Survey prepared by JK Environments (JKE), titled 'HAZARDOUS BUILDING MATERIALS SURVEY', dated 22 November 2022, reference E34773BLrpt5-HAZ and all the recommendations stated within this report forms part of the development consent.

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

- 1.3. The Asbestos Management Plan prepared by JK Environments (JKE), titled 'ASBESTOS MANAGEMENT PLAN', dated 22 November 2022, reference E34773Brpt4-AMP and all the recommendations stated within this report forms part of the development consent.

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

- 1.4. The acoustic report submitted in support of this application prepared by Day Design Pty Ltd, titled 'Environmental Noise Impact Statement', reference number 7432-1.1R, dated 22 March 2022 and all the recommendations stated within the report, form part of the development consent.
- 1.5. The plan of management submitted in support of this application prepared by Anba Wanis Pty Ltd , dated, 22 September 2022, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management.

Before the issue of a construction certificate, a final plan of management of all requirements of the above plan, and a requirement that staff (at the time of enrolment) provide parents a direction to utilise the approved basement car parking when available is to be approved by the principal certifier.

- 1.6. Before the issue of a construction certificate, the site is to be remediated in accordance with:
 - a. The approved Remedial Action Plan, prepared by JK Environments (JKE), titled 'REMEDIATION ACTION PLAN', dated 22 November 2022, reference E34773Brpt3-RAP;
 - b. State Environmental Planning Policy (Resilience and Hazards) 2021;
 - c. The guidelines in force under the Contamination Land Management Act 1997; and

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

Any variations to the approved remedial action plan must be submitted to and approved in writing by an NSW EPA Accredited Site Auditor and Council prior to the continuing of such work.

- 1.7. Before issue of the construction certificate, the proponent must submit a detailed validation report to Council.

The validation report must be prepared in accordance with:

- a. 'Managing Land Contamination: Planning Guidelines (Department of Urban Affairs and Planning and NSW EPA, 1998);
- b. Relevant EPA Guidelines, noting the guidelines for 'Consultants Reporting of Contaminated Land 2020 and
- c. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

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

The validation report must verify that the land is suitable for the proposed use as a Child Care Centre, and that the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan, prepared by JK Environments (JKE), titled 'REMEDIATION ACTION PLAN', dated 22 November 2022, reference E34773Brpt3-RAP.

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

- 2.1. Development Contributions of \$16,392.75 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Canterbury Bankstown Local Infrastructure Contributions Plan 2022 and Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services.

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

No construction 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. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. The long Service levy is calculated to be 0.35% of the total cost of the building and construction work. Payment is not required where the value of works is less than \$25,000. Payment can be calculated using the Levy Portal [Calculator](https://longservice.force.com/bci/s/levy-calculator) at <https://longservice.force.com/bci/s/levy-calculator>. Payment must be made via the [Long Service Levy Portal](https://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.

- 2.4. Separate approval must be sought (where required) under the relevant Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height above the proposed development and consequently, may require separate approval under the Regulations. It is advisable that approval to operate equipment (i.e. cranes) be obtained before the issue of any construction certificate.
- 2.5. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 – 'Parking Facilities - Off-Street Carparking' and Council's development control plan.
- 2.6. Where a boom gate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom (or card controller system) at the car park entry, installed at least 4 metres recessed into the site, when measured from the property boundary with the street. The intercom is to be wired to all units.

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

- 2.7. The minimum number of bicycle parking spaces is to be provided for the development must comply with the below.
- a. Four (4) Commercial Staff / Visitor Spaces

Note: The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 – 'Parking Facilities' Part 3: Bicycle Parking Facilities and 'Austroads Bicycle Parking Facilities: Guidelines for Design and Installation.'

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

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

2.9. Before the issue of the relevant construction certificate, the consent holder must submit the following written evidence of service provider requirements to the certifier:

- a. a letter of consent from the relevant electricity provider demonstrating that satisfactory arrangements can be made for the installation and supply of electricity; and
- b. a response from the relevant water authority, as to whether the plans proposed to accompany the application for a construction certificate would affect any of the relevant water authority infrastructure, and whether further requirements need to be met; and
- c. a letter of consent from the relevant telephone and broadband authority demonstrating that satisfactory arrangements can be made for the installation and supply of telephone and internet; and
- d. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

2.10. The building must be designed and constructed to provide access and facilities for people with a physical disability in accordance with the Building Code of Australia.

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

2.11. Before the issue of 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.

2.12. The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and 2 – 'The Use of Ventilation and Air-Conditioning in Buildings – Mechanical Ventilation in Buildings'.

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

- 2.13. Before the issue of a construction certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – ‘The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings’, and AS1668.1 – ‘The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings’.
- 2.14. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Before the issue of a construction certificate and occupation certificate the certifier must:
- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 2.15. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.
- a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the 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.
- 2.16. The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:
- a. A medium duty VFC at the property boundary.
 - b. Drainage connection to Council's system.
 - c. Concrete footway paving along the site's entire frontage.
 - d. Concrete kerb and gutter along the site's entire frontage.
 - e. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - f. Repair of any damage to the public road including the footway occurring during development works.
 - g. Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

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

- 2.17. The basement of the development is located adjacent to a Council public road reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's public road.
- 2.18. 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.

2.19. 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.

2.20. Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan Rev 1 dated 15/03/2022 prepared by Greenview consulting. The final plan shall be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

- 2.21. The pump out drainage system for the driveway/access ramp and car parking area/open space area shall be provided in accordance with Council's Bankstown Development Engineering Standards. The Engineer must design the Pump out drainage system to be in accordance with the Australian Standards AS 3500. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before the issue of any construction certificate. The engineer must certify that the hydraulic design complies with the above relevant standards.
- 2.22. Engineering details and manufacturers specifications for the pumps, switching system and sump pit shall be submitted to the certifier for approval before the issue of any construction certificate.
- 2.23. 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.

- 2.24. An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by a qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the certifier for approval before the issue of a construction certificate.
- 2.25. Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the property boundary with the street.
- 2.26. The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on

public roads. The consent holder shall nominate the route for approval by Council before commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by consent holder specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council before release of any construction certificate. All damage must be rectified before the issue of any occupation certificate.

- 2.27. Sight triangles are to be marked on relevant plans, being provided at the intersection of the driveway and the property boundary in accordance with AS 2890.1: 'Figure 3.3 – Minimum Sight Lines for Pedestrian Safety'. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. Any structures, plantings or fencing within these triangles is to be a maximum height of 600mm to ensure sight lines are kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.
- 2.28. Before the commencement of any works, all domestic waste bins servicing the site are to be returned to Council.
- 2.29. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:
- a. Council's Waste Management Development Control Plan
- 2.30. The construction certificate plans shall include details of the waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building or screened from the street by dense landscaping.
- 2.31. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate which identify that the bin carting route from the bin storage room to the waste collection point identified on stamped plans complies with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":
- a. Is direct and less than 10.0 metres in length,
 - b. Has a minimum width of 2.0 metres of hard surface;
 - c. Is of non-slip material and free from obstacles and steps;
 - d. Is not located within a driveway or carpark;
 - e. Has a maximum grade of 1:30 (3%); and
 - f. Has a layback installed at the collection point.

2.32. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the communal bin storage room that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":

- a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
- b. Floors must be finished so as to be non-slip with a smooth and even surface;
- c. The room is to be integrated within the design and built-form of the development with a minimum 2.1m unobstructed room height in accordance with the Building Code of Australia;
- d. Walls must be constructed of solid impervious material;
- e. Ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- f. Walls, ceiling and floors must be finished in a light colour;
- g. An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
- h. A self-closing door openable from within the room;
- i. Must be constructed to prevent the entry of birds and vermin;
- j. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- k. Any doorways must be 2 metres wide and open outwards; and
- l. Designed to fit the required bins for the following waste generations:
 - *Garbage – 1,500 L / week (based on 5L/child/day)*
 - *Recycling – 1,500 L / week (based on 5L/child/day)*

2.33. Before the issue of a construction certificate, the certifier is to ensure that all carpark exhaust does not directly vent into adjoining properties or indoor or outdoor play spaces.

2.34. 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).
- f. Details (including a through-section) of a suitably dimension planter box being established in the central courtyard capable of accommodating the required canopy tree shown in the approved plans.

2.35. 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.

2.36. A construction certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which development consent was granted, having regard to the design quality principles set out in Schedule 1 of SEPP No. 65.

2.37. All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain.

2.38. 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:

- 63 Victor Avenue, Picnic Point
- 67 Victor Avenue, Picnic Point
- 24 Apex Avenue, Picnic Point

3. Conditions to be Satisfied Before Construction.

3.1. Separate approval is required before the demolition of any structure located on site, where not permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

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 > Plumbing, building and developing > Developing > Section 73 Compliance Certificates, or telephone 13 20 92.
- 3.4. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

Where the work is located within 3.6m of a public place, then a Type A or Type B hoarding must be constructed appropriate to the work proposed.

An application for a Work Permit for such hoarding must be submitted to Council for approval before the commencement of building work/s.

- 3.5. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies) no less than 14 days before the commencement of any site or building works.
- 3.6. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.7. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 3.8. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 3.9. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the principal certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

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

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

- 3.10. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 3.11. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the

development to which the work relates (not being the council) has given the council written notice of the following information —

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

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

3.12. Before the commencement of any vegetation removal, or site or building work, a registered surveyor must survey the boundaries of the Asset Protection Zone (APZ) and mark these on the ground. The clearing of vegetation to establish the APZ must only occur within the marked APZ boundaries, and in accordance with the supporting documentation approved under this consent.

3.13. 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. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 4.8. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the principal certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.9. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.

4.10. While building work is being carried out, the consent holder must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

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

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

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

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

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

4.12. If 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.

4.13. If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.

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

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

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

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

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

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

- g. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses; and
 - h. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.
- 4.16. Any new information revealed during building work/s that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the principal certifier. Works are to cease until the new information is evaluated by an appropriately qualified and experienced environmental consultant and an appropriate response determined by the consent holder and/or owner which is agreed to by Council. Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the new contamination information.
- 4.17. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 4.18. All excavations must be kept free from the accumulation of water. Before approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with before approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.
- 4.19. 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.
- 4.20. 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. Fencings is to be installed so as not to obstruct pedestrian sight triangles in accordance with AS2890. All costs related to fencing must be borne by the consent holder.

- 4.21. While site or building work is being carried out, the consent holder must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970 – ‘Protection of trees on development sites’ and any arborist’s report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.
- 4.22. All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS 4373 – ‘Pruning of amenity trees’ and Australian Standard AS 4970 – ‘Protection of trees on development sites’. Site specific conditions relating to tree protection shall take precedence over this requirement.
- 4.23. If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.
- 4.24. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

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

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

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

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

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

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

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an occupation certificate. All imported fill must be compatible with the existing soil characteristics of the site.

- 4.27. 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.
- 4.28. All parts of the premises used for the storage, preparation and handling of food must be designed, constructed and operated in accordance with the requirements of:
- a. The Food Act 2003 and Food Regulation 2015;
 - b. Australia New Zealand Food Standards Code;
 - c. AS 4674-2004, 'Design, construction and fit-out of food premises';

- d. AS 1668.2 – ‘The Use of Ventilation and Air-Conditioning in Buildings – Mechanical Ventilation in Buildings’

4.29. The installation, operation and maintenance of a warm-water system on the premises must be undertaken in accordance with the relevant provisions of:

- a. Public Health Act 2010;
- b. Public Health Regulation 2022;
- c. AS 3666.1-2011, ‘Air-handling and water systems of buildings - Microbial control, design, installation and commissioning’;
- d. AS 3666.2-2011, ‘Air-handling and water systems of buildings - Microbial control, operation and maintenance’;
- e. AS 3666.3-2011, ‘Air-handling and water systems of buildings - Microbial control, performance-based maintenance of cooling water systems’; and
- f. ‘NSW Guidelines for Legionella Control in Cooling Water Systems’ (NSW Health, 2018).

The warm-water system must be registered with Council. A registration form is available on Council’s website which must be completed and submitted to Council prior to operation.

4.30. The waste storage room must be provided with smooth and impervious walls and floors and coved at the intersection of the floor and walls. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning. Open waste storage areas must be appropriately covered and bunded. The ground must be paved with impervious material and must be graded and drained to a wastewater disposal system according to Sydney Water’s requirements. A hose tap connected to a water supply must be provided.

5. Conditions to be Satisfied Before Occupation.

5.1. The Child Care Centre must implement and maintain a complaint handling procedure. Every complaint must be recorded on a Complaint Form and kept in a Complaints Register. The Complaint Form must contain the following information:

- a. Name, address and contact details of the Complainant;
- b. Time and date the complaint was received;
- c. The nature of the complaint or incident (see below what constitutes an incident);
- d. The time and date the incident occurred;
- e. The name of the employee that received the complaint;
- f. Actions taken to investigate the complaint and the summary of the results of the investigation;

- g. Indication of what was occurring at the time the incident was observed;
- h. Required remedial action;
- i. Validation of the remedial action;
- j. Summary of feedback to the complainant and name of employee who gave the feedback.
- k. Incident includes:
 - i. Any breach of a plan of management (where applicable);
 - ii. Any complaint by any person about the operation of the premises;
 - iii. Any complaint by any person about noise emanating from the premises; or
 - iv. Any event that may cause concern to any person as a result of the conduct and/or an act of any person(s) on, entering or exiting the premises.

All complaints received shall have an initial investigation commencing within seven (7) days.

The Complaints Register must always be held on the premises and shall be reviewed monthly by the Child Care Management to ensure all complaints are being investigated and resolved in a timely manner.

The Complainant must be notified of the results and actions arising from the investigation.

The Complaints Register must contain a direction that all complaints of a criminal nature are to be reported to the Police immediately.

A copy of the Complaints Register shall be provided to Council or Police immediately upon request.

- 5.2. Prior to the issue of an occupation certificate, a Business Registration Form must be completed and submitted to Council. This form is available online at www.cbcity.nsw.gov.au. In the instance details on the original registration form change, Council is to be notified of the change within seven (7) days of the change occurring.
- 5.3. Prior to the issue of an occupation certificate, a pre-occupation premises inspection report is to be undertaken by Council's Environmental Health Officer.
- 5.4. Fifteen (15) off-street car parking spaces shall be provided and maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained for the lifetime of the development.

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

- 5.5. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 5.6. The principal certifier shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above-mentioned acoustic report have been implemented and that the relevant noise criteria have been satisfied prior to the issue of any occupation certificate. A copy of the report is to be submitted to Council prior to the issue of any occupation certificate.
- 5.7. Before the issue of an occupation certificate, the principal certifier must ensure that no portion of the approved structure, including gates and doors during opening and closing operations, provides for encroachment upon Council's footpath area.
- 5.8. 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.
- 5.9. 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'.
- 5.10. Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:
 - a. After comparing the pre-construction dilapidation report to the postconstruction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and
 - b. Where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s) at the following properties:

- 63 Victor Avenue, Picnic Point
- 67 Victor Avenue, Picnic Point
- 24 Apex Avenue, Picnic Point

5.11. Before the issue of an occupation certificate, the principal certifier must ensure that the car park is ventilated in accordance with the Building Code of Australia and, where necessary, Australian Standard AS 1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.

5.12. 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.

5.13. 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.

5.14. Before issue of an occupation certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, must be submitted to the principal certifier.

5.15. 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).

5.16. 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.

- 5.17. 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.

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

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

- 5.19. The following signs must be provided and maintained within the site at the point(s) of vehicle egress:
- a. Compelling drivers to stop before proceeding onto the public way; and
 - b. Compelling drivers to "*Give Way to Pedestrians*" before crossing the footway.

- 5.20. 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.

- 5.21. 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.
- 5.22. The building must be readily identified from the street with the allocated house numbers. House numbering without Council's written approval is not permitted.
- 5.23. Lighting must be provided to the entries of the building, 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.
- 5.24. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – 'The Control of the Obtrusive Effects of Outdoor Lighting'.

6. Conditions of Use.

- 6.1. During ongoing use of the premises, the hours of operation of the Child Care Centre are restricted to:

	From	To
Monday	06:30am	6:30pm
Tuesday	06:30am	6:30pm
Wednesday	06:30am	6:30pm
Thursday	06:30am	6:30pm
Friday	06:30am	6:30pm
Saturday	No operation	
Sunday	No operation	
Public holidays	No operation	

- 6.2. No approval is granted or implied for the use of any roof element for any purpose other than for gaining access to carry out maintenance or repairs.

6.3. The Child Care Centre is restricted to a maximum of 60 children as follows:

- a. 0-2 years old - 8 children;
- b. 2-3 years old - 15 children;
- c. 3-5 years old – 37 children.

Only children between the ages of 3-5 are permitted to be cared for on the first floor of the facility.

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

6.5. The approved car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.

6.6. The on-site stormwater detention storage system within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.

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

6.8. All vehicles associated with the development are to enter and exit the site in a forward direction.

6.9. The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out.

6.10. The consent holder shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.

The waste collection contract must specify that waste collection from the site is only permitted during operational hours of the development (6:30am – 6:30pm Monday to Friday).

6.11. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

- 6.12. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request.
- 6.13. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 6.14. Should a noise issue (relating to the development) not previously identified arise (through complaint or otherwise), the owner/occupier must, upon request by Council, employ the services of a suitably qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the noise issue. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.

Note: Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

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