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Town Planning and Development

## Statement of Environmental Effects

### Division 8.2 Review Application

Accompanying a development application for

Change of use to educational and group activities for  
home-schooled children

At

Lot D DP 19584  
463 Chapel Road Bankstown

March 2022

Sunnah Life Academy

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**1. Introduction**

This statement of environmental effects has been prepared by David Carey Town Planning and Development on behalf of Sunnah Life Academy to accompany a development application for a change of use to educational and group activities for home-schooled children at 463 Chapel Road Bankstown. This is a review application under Division 8.2 of the Environmental Planning and Assessment Act 1979, seeking review of application No. 970/2020 that was refused by Council on 1 February 2022.

The proposal has been designed to achieve the relevant provisions and objectives of Bankstown LEP 2015 and Clause 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

The proposed use is suitable for the existing site. The proposed development will maintain the viability of the existing building and promote employment and business activity within the local area.

The impacts of the development are minor and it will not have an adverse impact on the surrounding area. Overall, the development will have a net positive impact on the Canterbury-Bankstown LGA.

This statement has been prepared having regard to the following documentation:

- Architectural plans prepared by Drafting Services
- BCA Report prepared by Icert Certification
- Access report prepared by Sam Osman
- Traffic Report prepared by ABC Traffic Consulting

The statement addresses the reasons for refusal of the previous application and provides minor amendments to the original application, providing an acceptable proposal that can be supported by Council.

## 2. Site description and analysis

### 2.1 Location and property description

The site consists of one torrens title lot, with a legal property description of Lot D DP 19584. The street address of the site is 463 Chapel Road Bankstown.



Figure 1 – Aerial view of site (Source: Six Maps)

### 2.2 Site characteristics

The total site has an area of 771m<sup>2</sup>. The building has an existing floor area of 270.3m<sup>2</sup>.

The site contains an existing two storey building. The building has previously been used for counselling services.

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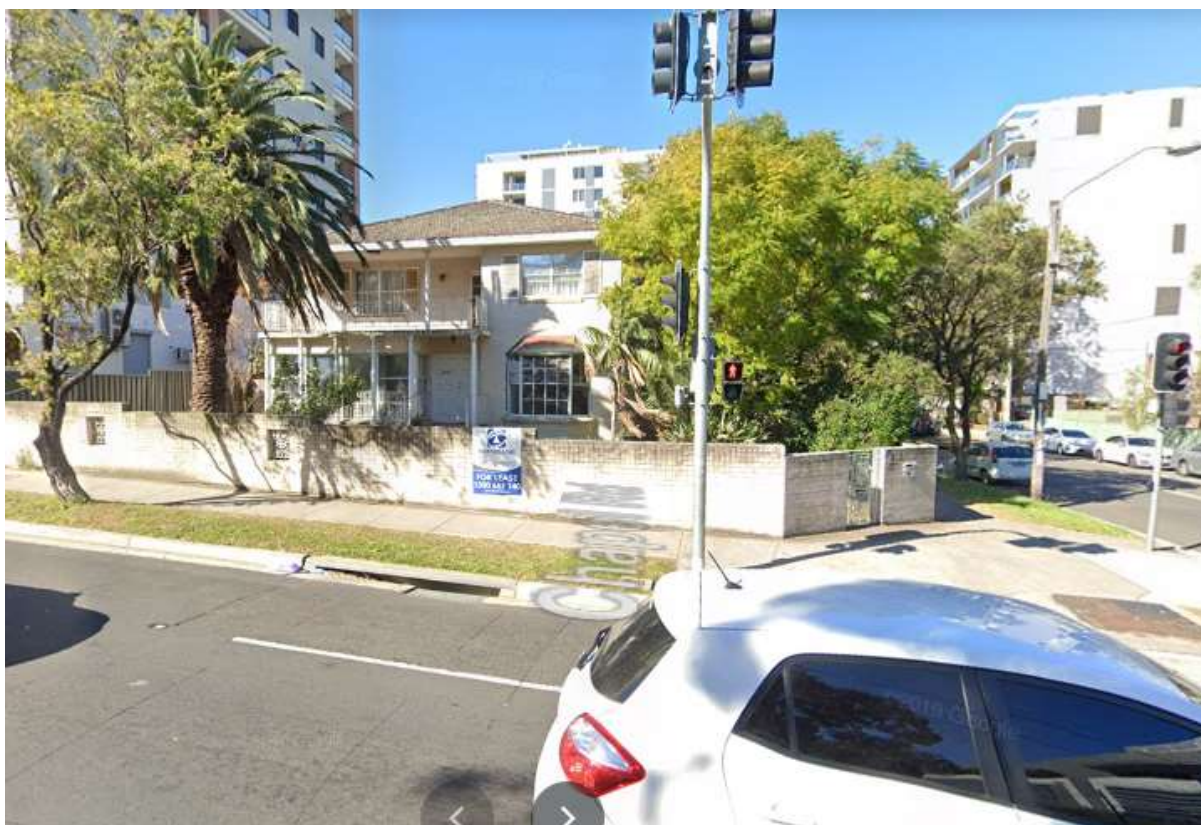


Figure 2 – View of site from Chapel Road (Google Maps)

All services are available to the property and the building has an external car parking area to the rear.

### **2.3 Surrounding development**

The site is located in a mixed use zoned area and is surrounded by other commercial and residential properties.

### **3. Details of proposal**

#### **3.1 Proposed works**

The proposed works are as follows:

- Change of use to educational and group activities for home-schooled children (business premise)

The site will be operated by Sunnah Life Academy, a business that provides tuition services.

The use predominantly provides for school age children who are home-schooled, where they will come together at the site to perform group-related activities. This will predominantly consist of education related activities eg. maths tuition, although others such as outdoor games may occur.

The proposed hours of operation are 10am to 4:30pm, Monday to Friday.

A maximum of four classes will run at any one time, each class has a maximum of 15 students. There are a total of seven workers at the site, of which there will be a maximum of four at any given time.

No signage is proposed as part of this application.

The application also seeks to regularise approval for some previously unauthorised works involving conversion of a previous room to a bathroom with two cubicles and a wash basin on the ground floor.

Associated with the development are also access and BCA upgrades to the building including provision of a chair lift, disabled access ramp and provision of an accessible toilet. Refer to the proposed plans and BCA/Accessibility reports for further information.

The details of the review application are the same as that of the original application, with the exception of the proposed provision of a shuttle bus service between the site and Bankstown train station. Refer to further information in Sections 4 and 5 of this SEE. Under Section 8.3 (3) of the Act, in requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development. T

The amendment is minor and the proposal is therefore substantially the same development. Although the amendment is minor, it addresses Council's main concern for the initial refusal.

#### **4 Clause 4.15 -Matters for consideration**

The following provides an assessment of the proposal against the provisions of Clause 4.15 of the Environmental Planning and Assessment Act (as amended).

***(a) the provisions of:***

***(b) (i) any environmental planning instrument***

#### **Bankstown LEP 2015**

The subject site is zoned B4 Mixed Use under the Bankstown LEP 2015 The objectives of the zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To maintain the role of the Bankstown CBD as a major metropolitan centre.*

The development is consistent with the above objectives as it provides a compatible land use within the Bankstown CBD. The proposal would best be defined as a “business premise”, which is permitted under the zoning.

The development complies with all other provisions of the LEP. There is no change to the height of the building or floor space ratio under this application.

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***(iii) any development control plan***

**Bankstown Development Control Plan 2015**

Bankstown Development Control Plan 2015 is applicable to the development. As the development is relatively minor (internal change of use), clauses of the DCP relevant to the development are minimal. The table below details compliance with relevant clauses.

Clause	Required	Proposed	Complies
<b>A1 (1) Desired Character Northern CBD Core Precinct</b>	<p>The Northern CBD Core precinct is located to the immediate north of the railway line. The Civic Precinct and Paul Keating Park form the central focus, and the established character is distinctly commercial due to a concentration of major civic, office and retail buildings (namely Bankstown City Council, Bankstown Court House, Bankstown Police Area Command, Compass Centre and Bankstown Central, which is a regional shopping centre). This precinct is highly accessible to the railway station and bus interchange, and as a result, this precinct is characterised by taller buildings and higher densities compared to other precincts. The desired character is to have the Northern CBD Core precinct continue to function as the heart of the City of Bankstown, with a mix of retail and commercial activities on the ground and first floors, and high density living above. Development will generally be in the form of tall buildings to create an identifiable skyline image for the Bankstown CBD. The tallest buildings will generally locate around Paul Keating Park to define the Civic Precinct and to take advantage of the amenity provided by the park. Generally, buildings around the railway station will be built to the street alignment to reinforce the urban character and strengthen the pedestrian amenity and activity at street level. Depending on the context, elements of taller buildings may need to be setback to provide sunlight to public spaces or to protect the amenity of neighbouring buildings. The railway station will continue to be the principal gateway to the Bankstown CBD and a generator of high pedestrian movements. Pedestrian access to and from the station will therefore remain a high priority, and it is proposed to create a friendly first impression by:</p> <ul style="list-style-type: none"> <li>- Creating a central boulevard along Fetherstone Street to make the station entry more visible and to provide a high quality north–south pedestrian connection to Sydney’s best local Civic Precinct (as shown in Figure 2). The boulevard treatment will extend along The Mall to also provide a high quality east–west pedestrian connection to Bankstown Central. Mid–block connections will supplement this pedestrian network.</li> <li>- Encouraging airspace development over the station to create a memorable landmark at the terminus of the Fetherstone Street boulevard and to provide better pedestrian connections between the north and south sides of the Bankstown City Plaza precinct. Towards the CBD edge, buildings will have a minimum 3 metre street setback</li> </ul>	<p>The development will provide a business premise within the CBD while having no impact on built form. The development is consistent with this desired character.</p>	<p>Yes</p>



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	to accommodate the major street tree boulevards leading into the Bankstown CBD, namely Rickard Road and Meredith Street (as shown in Figure 2). This setback will also act as a transition to the building alignments of the neighbouring residential area.		
<b>Part B5 2.3 Car parking</b>	Business premises in Bankstown CBD 1 space per 40m <sup>2</sup> or half the gross floor area of the premises; and a planning agreement is considered on the remaining 50% of parking requirements for the purpose of public parking	Building floor area is 270.3m <sup>2</sup> , equating to a requirement for 7 spaces. Three spaces available.	No

### Car parking

The DCP requires at least one space per 40m<sup>2</sup> of floor area, or half the gross floor area of the premises and a planning agreement is considered on the remaining 50% of parking requirements. A total of seven car parking spaces are required, whereas area for the parking of three cars is available within the garage and on the driveway.

A variation to the requirement for a planning agreement for the remaining 50% of parking requirements is sought. The development is for a change of use only to an existing building. The preparation of a planning agreement for a development of this scale is considered to be excessive and not necessary based on the likely future parking demand.

The nature of the proposed development, serving children who are home-schooled will generate a relatively low level of car parking. All of the students will not drive cars and will be dropped off by parents, many of whom will walk or take public transport to the site. Similarly, staff will have the opportunity to car pool or walk/take public transport to the site.

The development is a change of use only and the level of parking demand is expected to be similar to that of the previous use of the building which was a counselling service operated by a not for profit provider. The overall floor area will remain the same under the development.

There is substantial street parking, a public parking area on the opposite side of Chapel Road and public transport within walking distance. There will be a maximum of four classes at any given time on the site. Classes will be staggered to reduce parking demand and the hours of operation between 10am and 4:30 pm are outside of peak times.

Many of the students will share cars being dropped off and picked up, as there is generally more than one home-schooled child within each household. Overall, the level of parking demand is expected to be broadly the same as existing and there is limited opportunity to provide additional car parking on the site. Council should therefore have comfort in determining that the level of parking on the site is adequate.

A traffic report has been prepared by ABC Traffic Consulting and submitted as part of the application. The report indicates that the proposal is unlikely to generate any significant traffic or parking issues in the vicinity and makes a recommendation for 10 minute parking on French Avenue along the site boundary. There is existing 21.5m section between the existing 'No Stopping' zone and the driveway which is restricted to '2P; 8.30am – 6pm, Mon – Fri; 8.30am – 12.30pm, Sat'. This parking restriction could be amended to '10 Min; 8.30am – 10am, 3pm-4pm, Mon-Fri; 2P, 10am – 3pm, Mon – Fri; 8.30am – 12.30pm, Sat'. This would significantly assist the pick-up and drop-off by the parents right outside the centre. Council could adopt this recommendation as part of a condition of approval.

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The existing driveway has been amended on the plans to comply with the site triangle requirements of AS2890.

A change of this review application compared to the original application is that the applicant undertakes to provide a shuttle bus between the site and Bankstown train station at the opening and closing time of the proposed centre. ie. at 10am in the morning and at 4pm in the afternoon, Monday to Friday. This will further reduce parking demand compared to the original application as it will provide better public transport connections.

***(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F***

Not applicable

***(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

Not applicable.

***(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,***

The subject site is not known to be affected by a coastal zone management plan within the meaning of the Coastal Protection Act 1979.

***(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,***

The proposed development will not create significant environmental impacts on the natural and built environments. The proposed development involves no significant external works and is a suitable use within the context of the existing site.

The development will have no adverse social impact on the surrounding area.

Economic benefits will occur as a result of the employment of staff and greater business activity in the Canterbury-Bankstown LGA.

***(c) The suitability of the site for the development,***

The proposed development is permissible under relevant planning controls; it is compatible with surrounding land uses and supports the continued use of a building for community/business related purposes.

The site is zoned mixed use and the development is consistent with the objectives of the zoning.

***(d) any submissions made in accordance with this Act or the regulations,***

Consideration will be given to any submissions made as a result of Council's consultation and notification processes.

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***(e) the public interest.***

No adverse impacts relating to the public interest are expected to arise from the proposal. The proposal supports the continued use of the site for purposes consistent with the zoning and planning controls.

## 5. Response to reasons for refusal

*1. The development as proposed fails to demonstrate compliance with Clause 2.1 of the Bankstown Development Control Plan 2015 – Part B5 in relation to providing sufficient off-street parking for the specific land use [Pursuant to Section 4.15(1)(a)(iii) Environmental Planning and Assessment Act, 1979];*

Comment: The application has never demonstrated compliance with the Development Control Plan. A variation is sought to Part B5 of the Development Control Plan as outlined in this statement of environmental effects and the statement provided in the original application. Clause 4.15(3A)(b) of the *Environmental Planning and Assessment Act 1979* provides that if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

A variation under the above requirement is sought. Refer to further detail in Section 4 of this DCP. A shuttle bus arrangement is proposed under this review application between the site and Bankstown train station, which will further reduce parking demand compared to the original application.

The proposal is a relatively old building that was constructed under planning controls applicable at the time. It has since been occupied by a range of different uses. Strict compliance with the DCP is not feasible in this instance due to the layout of the site.

*2. The proposed development fails to comply with the Environmental Planning & Assessment Regulation, 2000 Section 49 regarding the lack of owner's consent for works on the adjoining property [Pursuant to Section 4.15(1)(a)(iv) Environmental Planning and Assessment Act, 1979];*

Comment: No actual physical works are proposed on the adjoining property that would require Development Consent. It is only a note on the plans re a sight line triangle. This area is currently occupied by a driveway on the adjoining property. Only works on 463 Chapel Road are proposed concerning this sight triangle including the demolition of the existing brick structure. Nevertheless, consent from the adjoining owner has been obtained and submitted as part of this review application.

*3. The proposed development fails to demonstrate a suitable level of impact. [Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act, 1979];*

Comment: Refer to Section 5 of this SEE, addressing all of the impacts of the proposal. Additional information has been provided as part of this review application and traffic/parking impacts have been reduced through the proposed provision of a shuttle bus service between the site and Bankstown train station.

*4. Due to the above, the site is considered unsuitable for the proposed development. [Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979];*

Comment: Not agreed. The site is zoned for B4 Mixed Use purposes and the proposal is permitted under the zoning. The proposal complies with all controls of the LEP and all controls of the DCP, with the exception of car parking, for which justification has been provided in this statement and in the traffic report submitted as part of the application.

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Upgrade works to the proposed building will be performed to ensure that it complies with the Building Code of Australia and disabled access standards. Works will also be undertaken as per the traffic report including the provision of sight lines and a 10 minute parking zone in French Avenue.

*5. Due to the above, the development is not considered to be in the public interest. [Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979].*

Comment: Based on the above and the amendment associated with this review application (providing a shuttle bus between the site and Bankstown railway station), the proposal is in the public interest and should be approved by Council as submitted.

## **6.0 Other considerations**

### **6.1 Visual Impacts**

The development will have minimal visual impacts. The proposed change of use is internal to the building. Only minor external works to bring the building into compliance with the BCA and Australian Standards are proposed.

### **6.2 Open Space**

The development will create no additional demand for open space. The site will be used for the purposes associated with the development.

### **6.3 Overshadowing and Privacy**

The development will have no overshadowing or privacy impacts.

### **6.4 Noise**

Noise impacts of the development will be acceptable. The hours of operation will be limited to 10am to 4:30pm, Monday to Friday and there will be no operation outside of these hours. The site is located within the Bankstown CBD, being an area with existing large sources of noise within business hours. A majority of the activities will occur within the building, which will limit noise impacts on surrounding properties. Residents of adjoining buildings will often be at work and outside of their homes during this time.

### **6.5 Erosion Control Measures**

Not applicable, all works are internal to the unit.

### **6.6 Economic and Social Impacts**

The proposed development is likely to contribute to a range of economic benefits in the Canterbury-Bankstown local government and surrounding areas through:

- additional business opportunities within the area
- employment of additional persons at the premises
- the use of the site contributing to the ongoing maintenance and viability of the building

The development will have the beneficial social impacts of providing social opportunities and interaction for students who are home-schooled within the Canterbury-Bankstown area.

### **6.7 Environmental Benefits**

The proposed development will have minimal adverse impacts on the environment as no substantial external physical works are proposed.

### **6.8 Disabled Access**

The development will comply with BCA provisions relevant to disabled access.

#### **6.9 Security, Site Facilities and Safety**

A secure entry to the building is available via the front. Building and parking areas have good passive surveillance, increasing the safety within the site.

#### **6.10 Waste Management**

Garbage and recycling will be collected by a commercial provider. Bins will be collected near the driveway on French Avenue.

#### **6.11 Building Code of Australia**

The development will comply with the Building Code of Australia.

#### **6.12 Traffic**

Traffic impacts of the development will be acceptable. The site is located within the Bankstown CBD and is expected that many students/parents will walk or take public transport to the site. There are two existing parking spaces available via the garage which will be used by employees. Two spaces are adequate for the four workers at the site at any given time, as some of the employees will car pool, walk or use public transport to access the site.

All of the students are school age and will not drive cars or park at the site. Students are dropped off and collected at the conclusion of their classes.

There is substantial street parking, a public parking area on the opposite side of Chapel Road and public transport within walking distance. A shuttle bus between the site and Bankstown railway station is proposed as part of this review application.

#### **6.13 Stormwater/flooding**

There will be no impact on stormwater as the change of use is internal to the building,

## 7.0 Conclusion

The development proposed for the subject site, located at 463 Chapel Road Bankstown has been considered in terms of the matters for consideration that are contained within Clause 4.15(1) of the *Environmental Planning and Assessment Act 1979* ("the Act").

As indicated in Part 4 of this Statement, the proposed development is considered to be acceptable in terms of the relevant provisions of Bankstown LEP 2015, which is the principal environmental planning instrument applicable to the subject site. As such, it is considered to be acceptable in terms of Clauses 4.15(1)(a)(i) and 4.15(1)(a)(ii) of the Act.

As indicated in Part 4 of this Statement, the proposed development is considered to be acceptable in terms of all the relevant aims, objectives and standards contained within the relevant chapters of the Bankstown Development Control Plan 2015 and is therefore consistent with Clause 4.15(1)(a)(iii) of the Act.

In addition, the proposed development would have a number of positive effects on both the natural and built environments, as well as a range of social and economic benefits. It is considered unlikely that the proposed development, given its nature, scale and location, would have any detrimental impacts on the built or natural environment or any detrimental social or economic impacts on the surrounding locality. Thus, it is considered to be acceptable in terms of Clause 4.15(1)(b) of the Act.

Further, the subject site, given its location, size and features, and given it is not subject to any significant hazards, is considered to be, pursuant to Clause 4.15(1)(c) of the Act, suitable for the proposed development.

The proposed development will provide for continued use of a building within the Bankstown CBD, without having any significant adverse impacts on the surrounding area. Thus, the proposed development is clearly in the public interest, and acceptable in terms of Clause 4.15(1)(e) of the Act.

Given the above, the proposed development is worthy of approval, and it is requested that the development application to which this Statement of Environmental Effects relates be approved by Council as submitted.

This statement has addressed the reasons for refusal of the previous application and meets the requirements of a review under Division 8.2 of the *Environmental Planning and Assessment Act 1979*. Owners consent has been provided from the adjoining owner and the provision of a shuttle bus service between the site and Bankstown train station will reduce the parking and traffic impacts to an acceptable level.