



DEVELOPMENT APPLICATION

# STATEMENT OF ENVIRONMENTAL EFFECTS

## City of Canterbury - Bankstown

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**Lot 3 in DP 201398 No. 3 Peter Crescent, Greenacre**

Alterations and additions to an existing Dwelling House (New Roof to Terrace)

8<sup>TH</sup> JUNE 2022

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# 1 /

## INTRODUCTION

### 1.1 BACKGROUND

Peter Fryar of Key Urban Planning has prepared this Statement of Environmental Effects (the “**SEE**”).

- He is a Town Planner with over 33 years’ experience in Local Government and private practice.
- He holds a Degree as a Bachelor of Town Planning (UNSW) and a Certificate as a ‘Town and Country Planner’ issued under The Local Government Act, 1919.
- He is a Corporate Member of the Planning Institute of Australia (PIA).

This SEE assesses the impacts of the proposed development under the provisions of the relevant Planning Controls applicable to the subject site. This assessment has been undertaken in accordance with the provisions of Section 4.15 of the Environmental Planning & Assessment Act, 1979 (the “**Act**”).

In the preparation of this Statement we have:

- Undertaken an inspection of the site and surrounding locality.
- Undertaken a review of the Bankstown Local Environmental Plan 2015 (the “**LEP**”).
- Assessed the proposal against the relevant chapters of Bankstown Development Control Plan 2015 (the “**DCP**”).
- Consulted with relevant Duty & GIPA Officers of Council; and
- Considered the relevant provisions of the Act and Regulations.

This SEE has been prepared in accordance with the provisions of Section 4.12 of the Environmental Planning and Assessment Act, 1979 and Clause 24 of the Environmental Planning and Assessment Regulation 2021.

The proposal complies with all relevant development standards and is generally consistent with the relevant Planning Controls adopted by the City of Canterbury - Bankstown. The development application (DA) warrants the granting of development consent by Council

# 2/

## SITE ANALYSIS

### 2.1 SITE DESCRIPTION & EXISTING DEVELOPMENT

The property is known as **Lot 3 in DP 201398 No. 3 Peter Crescent, GREENACRE** (the “**site**”). The site is located on the north-eastern corner of the bend of Peter Crescent. The site has two street frontages to Peter Crescent.

Development application DA-1762/2002 granted consent on 21 March 2003 to the ‘*Demolition of Existing Dwelling and Construction of a New Two Storey Dwelling and Outbuilding*’. On 20 October 2004, the development consent was modified pursuant to the provisions of section 4.55(2) of the Act for the ‘*Detention of stairwell to provide access to a new rooftop terrace area, new bathroom within the garage area and the deletion of windows on the first and ground floor*’.

The site has a dual frontage to Peter Crescent of 15.145m/3.06m splay/32.575m.

*The site area is 585m<sup>2</sup>.*

The following photographs show the site and surrounding locality:

**Photograph 1** – Aerial photograph (*Courtesy Council*)



Photograph 2 – Panoramic view of site Peter Crescent (Bend)



Photograph 3 – View of rear of premises from Peter Crescent



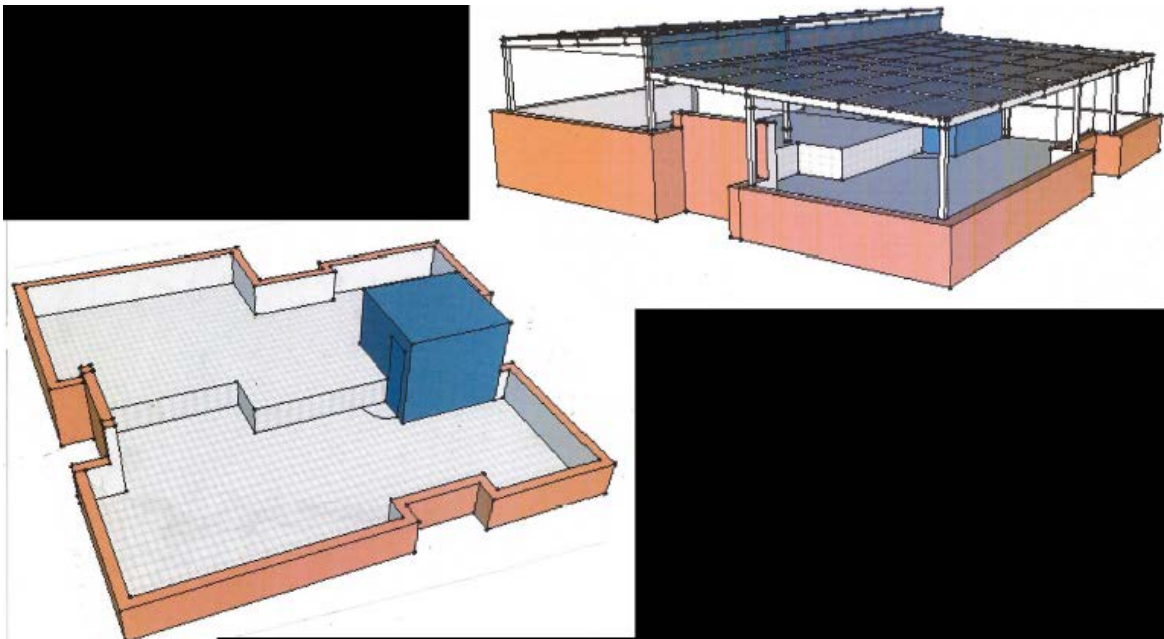
# 3/

## DESCRIPTION OF THE DEVELOPMENT

### 3.1 THE PROPOSED DEVELOPMENT

The proposed development incorporates:

- The concrete slab that forms the roof/rooftop terrace has not been adequately waterproofed and drained and as a consequence, rainwater is penetrating and seeping into the internal rooms within the dwelling house. The proposed roofing will assist in overcoming the seepage issue and will also provide all-weather protection to the approved rooftop terrace that forms part of the existing dwelling house.
- The proposed roof will provide all-weather protection to the existing roof top terrace approved under development consent DA-1762/2002.
- The proposed roofing will be constructed from metal support posts with a metal roof of colorbond sheeting. The roofing material will be of no-reflective material and will be connected to the existing stormwater system.
- The roof design will be of 'skillion' type and will extend to a maximum height of nine (9) metres.



## 4/

BANKSTOWN LOCAL  
ENVIRONMENTAL PLAN 2015

## 4.1 AIMS OF THE PLAN (CLAUSE 1.2)

Bankstown LEP 2015 came into effect on 6 March 2015 and adopts the Standard Environmental Planning Instrument form pursuant to section 3.20 of the Act. The LEP prescribes certain broad aims of the plan which development within the previous Bankstown Council should accord with where applicable. The relevant aims of the plan to the proposed development are as follows:

*“(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*  
*(a) to manage growth in a way that contributes to the sustainability of Bankstown, and recognises the needs and aspirations of the community,*  
*(b) to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,*  
*(c) to protect the natural, cultural and built heritage of Bankstown,*  
*(d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,*  
*(e) to minimise risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,*  
*(f) to provide a range of housing opportunities to cater for changing demographics and population needs,*  
*(g) to provide a range of business and industrial opportunities to encourage local employment and economic growth,*  
*(h) to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,*  
*(i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*  
*(j) to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,*  
*(k) to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,*  
*(l) to enhance the quality of life and the social well-being and amenity of the community.”*

The proposed development is considered to be consistent with the relevant aims detailed above for the following reasons:

- The proposed development conforms to the clear framework for development in Canterbury Bankstown LGA through the prescribed standards in the LEP and the



performance criteria contained within the DCP.

- The proposal provides for orderly and sustainable development;
- The development will not detract from the existing character of the locality (Greenacre residential area).
- The proposal will not detract from the aesthetic, environmental, architectural, and natural features of the locality.
- The proposed use will provide a convenient and beneficial facility for the occupants of the existing dwellinghouse.

#### 4.2 SUSPENSION OF COVENANTS, AGREEMENTS, AND INSTRUMENTS (CLAUSE 1.9A)

Clause 1.9A of the LEP states:

*“(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.”*

The proposed development application does not seek to modify the terms of any s 88B restriction applying to the land. The proposed works will not obstruct or encroach upon any registered right-of-carriageway or easement.

#### 4.3 PERMISSIBILITY OF THE DEVELOPMENT (CLAUSE 2.2)

The site is zoned R2 Low Density Residential under the provisions of Bankstown LEP 2015.

The ‘Dictionary’ contained within the LEP defines a “dwelling” and “dwelling house” as follows:

*“dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.”*

*“dwelling house means a building containing only one dwelling.*

*Note—*

*Dwelling houses are a type of residential accommodation—see the definition of that term in this Dictionary.”*

The proposed development involving alterations and additions to the existing dwelling house is permissible within the R2 Low Density Residential Zone with the consent of Council.

Figure 1 – BLEP 2015 zoning extract



#### 4.4 OBJECTIVES OF THE R2 ZONE (CLAUSE 2.3)

Clause 2.3 of LEP 2015 requires the Council in granting consent to development under the plan to “have regard to the objectives for development in a zone when determining a development application in respect of land within the zone”. The issue of permissibility discussed previously in this SEE is reliant upon the R2 Low Density Residential Zone Land Use table.

The specific objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

**Comment:** The proposed alterations and additions will overcome structural issues that exist within the dwelling house. The issues causing water penetration into the internal living areas of the dwelling house are creating mould and dampness problems for the occupants. The proposed roof above the approved rooftop terrace will improve the usability of the terrace by providing all-weather protection for the occupants of the dwelling.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow for certain non-residential development that is compatible with residential uses and does not adversely affect the living environment or amenity of the area.*

**Comment:** Not applicable.

- *To allow for the development of low density housing that has regard to local amenity.*

**Comment:** The proposed development will improve the local amenity of the occupants of the dwelling by overcoming issues relating to stormwater penetration and provision of all-weather protection to the existing roof top terrace. No adverse impacts upon the amenity of the neighbouring properties will result from issues relating to overshadowing or privacy.

- *To require landscape as a key characteristic in the low density residential environment.*

**Comment:** The proposed development will cover the existing built form on the site and will not result in any reduction of existing landscaped area on the site.

#### 4.5 DEMOLITION (CLAUSE 2.7)

Clause 2.7 of LEP 2013 requires development consent to be obtained prior to undertaking any demolition works. Minor demolition works are proposed. Consent is sought for demolition works as part of the Development Application namely the removal of portions of the roof structure.

#### 4.6 HEIGHTS OF BUILDINGS (CLAUSE 4.3)

The maximum building height prescribed under the height map contained within the LEP 2015 is nine (9) metres. The overall height of the additions will not exceed the maximum height standard.

Figure 2 – BLEP 2015 Height Map

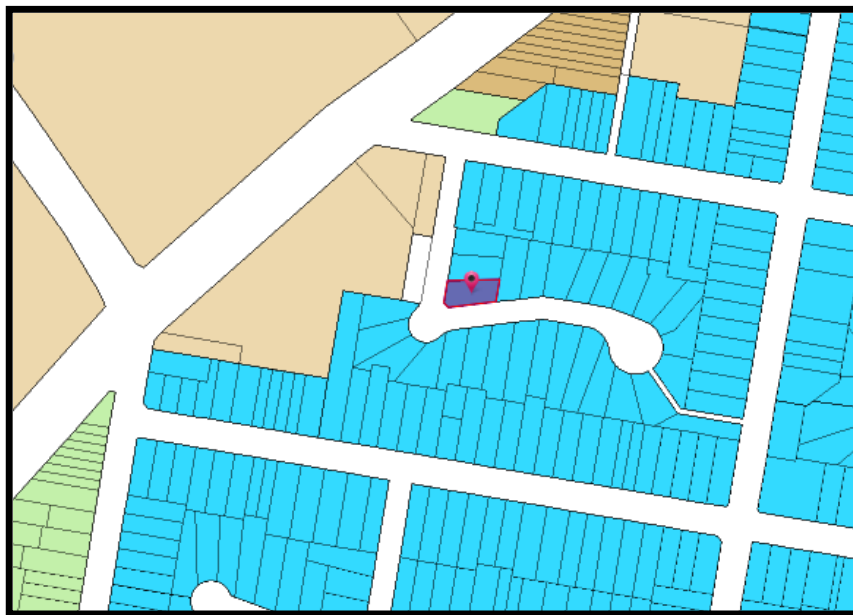


#### 4.7 FLOOR SPACE RATIO (CLAUSE 4.4)

The Floor Space Ratio map prescribes a maximum floor space ratio (FSR) for the site of 0.5:1. Maximum site coverage and floor area are adopted performance criteria assessed under the DCP. The proposal will comply with the maximum 0.5:1 Floor Space Ratio.

The existing Floor Space Ratio is 0.46:1. No additional gross floor area will result from the proposed roof.

Figure 3 – BLEP 2015 Floor Space Ratio Map



## 5/

BANKSTOWN DEVELOPMENT  
CONTROL PLAN 2015

## 5.1 PART B1 – RESIDENTIAL DEVELOPMENT

This part deals with residential development within the R2 Low Density Residential zone.

**Compliance Table:** The provisions of the relevant Parts of the DCP are summarised in the Table below:

BANKSTOWN DCP 2015 – COMPLIANCE TABLE		
PART B1 – RESIDENTIAL DEVELOPMENT		
DCP SECTION	ASSESSMENT OF PROPOSAL	COMPLIANCE
<p><b>Section 2 – Dwelling Houses</b></p> <p><b>Storey Limit</b></p> <p>2.3 The storey limit for dwelling houses is 2 storeys.</p> <p>2.4 The siting of dwelling houses and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property. Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.</p> <p>2.5 Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where: (a) the dwelling house is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or (b) the fill is contained within the ground floor perimeter of the dwelling house to a height no greater than 1 metre above the ground level (existing) of the allotment.</p> <p><b>Setbacks to the primary and secondary road frontages of allotments</b></p> <p>2.7 The minimum setback for a building wall to the primary road frontage is:</p> <p>(a) 5.5 metres for the first storey (i.e. the ground floor); and</p> <p>(b) 6.5 metres for the second storey.</p> <p>2.8 The minimum setback to the secondary road frontage is:</p>	<p>The 'Dictionary' contained in the LEP defines a storey as follows:</p> <p><b>storey</b> means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include—</p> <p>(a) a space that contains only a lift shaft, stairway or meter room, or</p> <p>(b) a mezzanine, or</p> <p>(c) an attic.</p> <p>The proposed all-weather protection to the existing roof top terrace does not constitute a storey and therefore the existing 2 storey dwelling house will comply with the height controls of the DCP.</p> <p>The development will not result in any alteration to the existing ground level of the site.</p> <p>The proposed additions will be contained wholly within the existing building footprint and will not result in any reduction to the existing setbacks for built form on the site.</p>	<p>YES</p> <p>YES</p>

<p>(a) 3 metres for a building wall; and</p> <p>(b) 5.5 metres for a garage or carport that is attached to the building wall.</p> <p><b>Setbacks to the side and rear boundaries of allotments</b></p> <p>2.9 For the portion of the building wall that has a wall height less than or equal to 7 metres, the minimum setback to the side boundary of the allotment is 0.9 metre.</p> <p>2.10 For the portion of the building wall that has a wall height greater than 7 metres, the minimum setback to the side boundary of the allotment is 1.5 metres. Council may vary this requirement where a second storey addition to an existing dwelling house demonstrates it must use the ground floor walls for structural support.</p> <p>2.11 The basement level must not project beyond the ground floor perimeter of the dwelling house.</p>	<p>The proposed additions will be contained wholly within the existing building footprint and will not result in any reduction to the existing setbacks for built form on the site.</p>	<p>YES</p>
<p><b>Private open space</b></p> <p>2.12 Dwelling houses must provide a minimum 80m<sup>2</sup> of private open space behind the front building line. This may be in the form of a single area or a sum of areas provided the minimum width of each area is 5 metres throughout.</p>	<p>The proposed additions will be contained wholly within the existing building footprint and will not result in any reduction to the private open space on the site.</p>	<p>YES</p>
<p><b>Access to sunlight</b></p> <p>2.13 At least one living area must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement this access to sunlight provided these building elements are not the primary source of sunlight to the living areas.</p> <p>2.14 At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.</p> <p>2.15 A minimum 50% of the private open space required for the dwelling house and a minimum 50% of the private open space of a dwelling on an adjoining allotment must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met for a dwelling on an adjoining allotment, the development must not result with additional overshadowing on the affected private open space.</p> <p>2.16 Development should avoid overshadowing any existing solar hot water system, photovoltaic panel or other solar collector on the allotment and neighbouring properties.</p>	<p>The proposed roof structure is 'open sided' and will not (by the configuration) result in any reduction of solar access to the private open space on the site.</p> <p>No additional overshadowing of adjoining properties will occur because of the proposed works.</p>	<p>YES</p>
<p><b>Visual privacy</b></p> <p>2.17 Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must:</p> <p>(a) offset the windows between dwellings to minimise overlooking; or</p> <p>(b) provide the window with a minimum sill height of 1.5 metres above floor level; or</p>	<p>No adverse impacts upon the neighbouring properties is envisaged by the proposed roof.</p>	<p>YES</p>

<p>(c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or (d) use another form of screening to the satisfaction of Council.</p> <p>2.18 Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where: (a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or (b) the window has a minimum sill height of 1.5 metres above floor level; or (c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or (d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling.</p> <p>2.19 Council may allow dwelling houses to have an upper floor side or rear balcony solely where the balcony is not accessible from a living area or hallway, and the balcony design: (a) does not have an external staircase; and (b) does not exceed a width of 1.5 metres throughout; and (c) incorporates a form of screening to the satisfaction of Council such as partially recessing the balcony into the building.</p> <p><b>2.20 Council does not allow dwelling houses to have roof-top balconies and the like.</b></p>	<p>Whilst the DCP prohibits roof-top balconies as part of the dwelling house design the existing roof top terrace has been granted development approval by council.</p> <p>On 20 October 2004, development consent DA-1762/2002 was modified pursuant to the provisions of section 4.55(2) of the Act for the '<i>Detention of stairwell to provide access to a new rooftop terrace area, new bathroom within the garage area and the deletion of windows on the first and ground floor</i>'.</p> <p>The roof will (amongst other purposes) provide all-weather protection to an existing roof top terrace. The proposed development will not result in the creation of a roof top terrace as the terrace area was approved under the terms and conditions of development consent DA-1762/2002</p>	YES
<p><b>Building design</b></p> <p>2.21 The maximum roof pitch for dwelling houses is 35 degrees.</p> <p>2.22 Council may allow dwelling houses to have an attic provided the attic design:</p> <p>(a) accommodates no more than two small rooms (for the purposes of a bedroom and/or study) and a bathroom plus an internal link to the storey below; and</p> <p>(b) ensures the attic does not give the external appearance of a storey.</p> <p>2.23 The design of dormers must:</p> <p>(a) be compatible with the form and pitch of the roof; and</p> <p>(b) must not project above the ridgeline of the main roof; and</p> <p>(c) must not exceed a width of 2 metres; and</p> <p>(d) the number of dormers must not dominate the roof plane.</p>	<p>The proposed roof pitch will not exceed the 35 degrees maximum permitted under the DCP.</p>	YES
<p><b>Landscaping</b></p> <p>2.30 Development must retain and protect any significant trees on the allotment and adjoining allotments. To achieve this clause, the development may require a design alteration or a reduction in the size of the dwelling house.</p> <p>2.31 Development must landscape the following areas on the allotment by way of trees and shrubs with preference given to native vegetation endemic to the City of Bankstown (refer to Appendix 4 and Appendix 5 for a list of suitable species):</p> <p>(a) a minimum 45% of the area between the dwelling house and the primary road frontage; and</p> <p>(b) a minimum 45% of the area between the dwelling house and the secondary road frontage; and</p>	<p>The proposed additions will be contained wholly within the existing building footprint and will not result in any reduction to the private open space or landscaped area on the site.</p>	YES

<p>(c) plant at least one 75 litre tree between the dwelling house and the primary road frontage (refer to Appendix 5 for a list of suitable trees in the City of Bankstown or Appendix 6 for allotments that adjoin the Hume Highway); and</p> <p>(d) for development in the foreshore protection area (refer to map in Appendix 1), plant native trees with a mature height greater than 12 metres adjacent to the waterbody</p>		
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## 5.2 PART B13 – WASTE MANAGEMENT & MINIMISATION

Section 3 and 4 of the DCP (Part B13) provides controls that residential development should achieve in waste management. A Waste Management Plan has been prepared in support of the development application.

No changes to the existing waste management arrangements are required because of the proposed alterations and additions.



# 6 /

## SECTION 4.15 OF THE EP & A ACT, 1979

### 6.1 THE PROVISIONS OF RELEVANT PLANNING CONTROLS

#### Status Update on the Draft Consolidated Local Environmental Plan - Section 4.15(1)(a)(ii)

The Draft Consolidated Local Environmental Plan seeks to produce a single set of planning rules for Canterbury Bankstown and to implement current land use strategies, based on the vision set by Connective City 2036. The Draft LEP will replace Bankstown LEP 2015 and Canterbury LEP 2012 and will apply to development applications lodged on or after the date that the NSW Department of Planning, Industry and Environment approves the Draft LEP.

The draft LEP is a matter for consideration pursuant to the provisions of Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979. The saving provisions contained within the draft LEP allow the proposed development application to be considered under the current planning regime namely the Bankstown LEP 2015. The proposed zoning controls currently applicable to the site will not be altered under the draft LEP.

#### SEPP (Resilience and Hazards) 2021

Chapter 4 of the Policy provides guidelines for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 4.1 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

Clause 4.6 of SEPP (Resilience and Hazards) 2021 states:

*“(1) A consent authority must not consent to the carrying out of any development on land unless:*  
*(a) it has considered whether the land is contaminated, and*  
*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*  
*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

Clauses 4.7, 4.8 and 4.9 of the SEPP are not relevant to the proposed works as the site is not considered to be contaminated. Accordingly, the development application is satisfactory having regard to the relevant matters for consideration under the SEPP.

## **6.2 THE LIKELY IMPACTS OF THE DEVELOPMENT SECTION 4.15(1)(B)**

These matters have been addressed above.

## **6.3 THE SUITABILITY OF THE SITE - SECTION 4.15(1)(C)**

The site is located within an area zoned for residential activities. The proposed development is consistent with the relevant objectives of the zone. This is discussed in detail under section 4.3 of the SEE. The proposed development is permissible with the consent of Council.

## **6.4 SUBMISSIONS - SECTION 4.15(1)(D)**

This is a matter for Council's consideration under Council's notification requirements.

## **6.5 THE PUBLIC INTEREST - SECTION 4.15(1)(E)**

The public interest is served by developing the land in an efficient and economical way that enhances the character of the area and amenity of the neighbourhood. The proposal meets the aims of the Bankstown LEP 2015.

## **6.6 DEVELOPMENT CONTROL PLANS – SECTION 4.15 (3A)**

Amendments to the Environmental Planning and Assessment Act 1979 (the Act), which largely changed the key purpose of development control plans (DCP), came into effect on 1 March 2013. In short, the new principal purpose of a DCP is to provide '*guidance*' and the provisions of a DCP are expressly said not to be '*statutory requirements*'.

Specifically, section 4.15(3A) of the Act states that if a DCP contains provisions that relate to a pending development application, the consent authority must not impose more onerous standards, where the development proposal complies with the standards of a DCP. However, this provision does not apply when standards are set by a local environment plan.

A consent authority may only consider DCP provisions in connection with the assessment of the subject development application. This means that a consent authority will not be able to consider the consequences of a decision on hypothetical future development applications, and so should not be able to hide behind the notion that an approval may set an undesirable precedent. Additionally, a consent authority is not to have regard to how the provisions in the DCP have been applied previously.

The proposal complies fully with the provisions of the DCP.



## CONCLUSION

The merits of the application have been considered in this assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. More specifically, the proposal fully meets the standards of the LEP and, the general requirements of the relevant parts of the DCP.

The proposal satisfies the intent of the relevant planning controls for the locality.

The proposal achieves the objectives of Council's planning controls and is considered to be suitable for approval.

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**KEY URBAN PLANNING**