

**Statement of Environmental Effects  
And Clause 4.6 Written Request to Vary a Development Standard**

**For a  
Two Storey Dwelling House  
at  
20 Wingara Street**

**Chester Hill**

**Prepared for Ashmont Homes**

**Planning Outcomes Pty Ltd  
September 2022  
0417 467 509**

***Statement of Environmental Effects  
Two Storey Dwelling House  
20 Wingara Street Chester Hill  
Lot 451 DP 1050059***

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***1. Description of Proposal***

Demolition of existing structures and construction of a two storey dwelling house with attached double garage.

Ground Floor: Double garage, front porch, entry, internal stairs, guest bedroom with study, powder room, laundry, linen press, kitchen with walk-in pantry, dining room, family room and alfresco.

First Floor: Master bedroom with walk-in robe and ensuite, three bedrooms with built-in robes, bathroom, linen press.

***2. Site Analysis***

The site is located on the western side of Wingara Street and has an east-west orientation. The site has a frontage to Wingara Street of 14.52m and a maximum length of 29.845m. The site has a splayed rear boundary of 20.885m. The site has an area of 324.8m<sup>2</sup>.

The site has a fall of approximately 400mm from the rear boundary to the street.

There is an existing dwelling house on the site which will be demolished. An easement to drain water and a sewer main run along the rear boundary of the site.

The site is adjoined by single storey dwelling houses on each side at the rear of the site. The site is a flood affected site.

**Flooding**

Council has advised that the ground floor level for the dwelling house is to be 500mm above the ARI flood level of RL 32.7 that applies to the site. The ground floor level is RL 33.2 which complies with this requirement.

**Trees**

There is a tree in the front yard and a tree on the road reserve in front of the subject site. These trees are proposed to be removed for the dwelling house to be constructed. A new driveway and driveway crossover is proposed. The current driveway and driveway crossover is shared with 20A Wingara Street.



Existing dwelling house on the subject site at 20 Wingara Street Chester Hill showing existing shared driveway with 20A Wingara Street and the trees in the front yard and on the nature strip.



*Subject Site: 20 Wingara Street Chester Hill*

### **3. State Policies**

#### **3.1 SEPP (Resilience and Hazards) 2021 - Chapter 4 - Remediation of Land**

The site has a history of residential use and is therefore considered unlikely to be contaminated. No further investigation is considered to be necessary.

#### **3.2 BASIX**

A BASIX Certificate has been lodged with the development application.

#### **3.3 SEPP (Biodiversity and Conservation) 2021 - Chapter 11 - Georges River Catchment**

The site is located within the Georges River catchment. The Regional Plan aims to protect the water quality of the Georges River and its tributaries and the environmental quality of the whole catchment.

Stormwater will be managed throughout the life of the project with a rainwater tank for water retention and reuse. Stormwater will be disposed of to Council's drainage system. Erosion and sedimentation will be controlled during construction and will not impact on the catchment.

### **4. Bankstown LEP 2015**

#### **4.1 Objectives of Zone**

The site is zoned Low Density Residential R2. The objectives of the R2 zone are:

##### *Zone R2 Low Density Residential*

##### *1 Objectives of zone*

- *To provide for the housing needs of the community within a low density residential environment.*
- *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.*
- *To allow for the development of low density housing that has regard to local amenity.*
- *To require landscape as a key characteristic in the low density residential environment.*

It is considered that the proposed dwelling house is consistent with the objectives of the R2 Low Density Residential zone.

## 4.2 Development Standards

LEP Standard	Compliance
Zoning-R2	Dwelling house is permissible.
Height- 9m	Complies - height 8.184m Ridge RL 40.584 Existing Ground RL 32.4
FSR - 0.5:1 or 162.4m <sup>2</sup>	Non-compliance- 0.508:1 or 164.83m <sup>2</sup>  Variation of 2.43m <sup>2</sup> or 1.5%.
Minimum Lot Size - 450m <sup>2</sup>	Undersized allotment - 324.8m <sup>2</sup>
Heritage	The site does not contain a heritage item nor is it in the vicinity of any heritage items. The site is not located in a heritage conservation area.



Surrounding subdivision pattern – the subject site is not consistent with the subdivision pattern of the surrounding allotments.

### **4.3 Clause 4.6- Exceptions to Development Standards - Variation to Clause 4.4 Floor space ratio**

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

#### **Clause 4.6 Exceptions to development standards**

- (1) The objectives of this clause are as follows—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (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.**
- (4) Development consent must not be granted for development that contravenes a development standard unless—
  - (a) the consent authority is satisfied that—
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**
  - (b) the concurrence of the Planning Secretary has been obtained.**
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) the public benefit of maintaining the development standard, and*
  - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.**

#### **Extent of Variation**

The maximum floor space ratio permitted on the subject site is 0.5:1 (gross floor area 162.4m<sup>2</sup>). The proposed floor space ratio for the dwelling house is 0.508:1 or

164.83m<sup>2</sup>. The proposal exceeds the maximum floor space ratio of 0.5:1, a variation of 2.43m<sup>2</sup> or 1.5%.

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

### Objectives of Zone

#### *Zone R2 Low Density Residential*

##### *1 Objectives of zone*

- To provide for the housing needs of the community within a low density residential environment.*
- 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.*
- To allow for the development of low density housing that has regard to local amenity.*
- To require landscape as a key characteristic in the low density residential environment.*

The proposed development is for a two storey dwelling house that complies with the objectives of the R2 zone as follows:

- The proposal involves construction of a new dwelling house on a site that contains an existing dwelling house which is to be demolished. The proposal remains a low density development which will provide for the housing needs of the community within a low density residential environment.
- The proposal is compatible with the existing character of the locality which includes dwelling houses surrounded by landscaped open space and within the environmental capacity of the site to sustain. The proposed development is consistent with the neighbouring setbacks to maintain the streetscape character.
- The proposal includes a soft landscaped area within the front and rear setbacks. This ensures that landscaping remains a key characteristic of the new development.
- The soft landscaped area provided exceeds the required 45% of the front setback (49.1%) and meets the objective of ensuring that landscape is a key characteristic in the low density residential environment.
- The minor variation to the floor space ratio development standard and full compliance with the height standard ensures that the additional floor area will not result in any significant increase in overshadowing to the properties.

- The proposal complies with impervious area (approximately 56% of the site area) and landscape area requirements of the DCP and is within the environmental capacity of the site to sustain. In addition, stormwater will be managed throughout the life of the project including water retention and reuse on site.
- The additional floor space above the floor space ratio limit does not have any adverse environmental impacts and will not impact on adjoining future developments.
- The proposal complies with the guidelines of the Bankstown DCP for privacy and solar access to adjoining properties and will have no unreasonable amenity impacts to neighbouring properties.

For the above reasons, is considered to be consistent with the objectives for development in the R2 Low Density Residential Zone.

### **Objectives of the Development Standard**

#### ***Clause 4.4 Floor space ratio***

##### ***4.4 Floor space ratio***

*(1) The objectives of this clause are as follows—*

- (a) to establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site,*
- (b) to ensure the bulk of non-residential development in or adjoining a residential zone is compatible with the prevailing suburban character and amenity of the residential zone,*
- (c) to encourage lot consolidations in commercial centres to facilitate higher quality built form and urban design outcomes.*

The proposed development is consistent with the objectives of the floor space ratio standard because:

- The proposed dwelling is considered to be compatible in bulk and scale with other residences in the locality as the non-compliance with the FSR development standard is only minor at 2.43m<sup>2</sup>.
- The footprint of the building comprises 44.2% of the site area representing an appropriate correlation between the size of the site and the extent of development on the site.
- Approximately 44% of the site will be landscaped garden area ensuring that the proposal is consistent with the landscape character of the existing area.



- The proposed development is considered to be compatible with the character of the locality which provides for the housing needs of the community within low density residential developments surrounded by landscape gardens.
- The proposal because it complies with the DCP guidelines for minimum landscaped area and maximum impervious area will have an appropriate visual relationship with the existing character of the surrounding residential area.
- The non-compliance with the maximum floor space ratio will not cause adverse impacts to adjoining development or the public domain with regard to visual impact, disruption of views, loss of privacy and loss of solar access.
- There are no heritage items or conservation areas in the vicinity of the subject site. The proposed dwelling house has been designed to suit the topography of the site and to maintain the scenic and visual quality of the area.

Whether the objectives of the standard and of the R2 Low Density Residential Zone are satisfied notwithstanding the non-compliance with the standard

As outlined above, the proposed development satisfies the objectives for development in the R2 Low Density Residential Zone and the objectives of the floor space ratio development standard.

Therefore, the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Reasons in support of the exception

Clause 4.6(3) of the *Bankstown Local Environmental Plan 2015* states that 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
- The site is unique as it is not consistent with the surrounding subdivision pattern as shown in the plan above which comprises rectangular lots that exceed a minimum area of 450m<sup>2</sup>. The site is an undersized allotment being 324.8m<sup>2</sup> in size with an irregular shape.

- The floor space ratio development standard of a maximum of 0.5:1 is based on a minimum site area of 450m<sup>2</sup> which is 225m<sup>2</sup>. The proposed FSR is 164.83m<sup>2</sup> well below the minimum allowable FSR.
- The proposed development complies with the *Bankstown Development Control Plan* requirements regarding landscaped area and impervious areas, confirming that the proposal is not an overdevelopment of the site.
- As detailed above, the proposal satisfies the objectives of the development standard and the objectives for development in the zone.

It is therefore considered that compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of this case.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

- The non-compliance is not readily perceivable from adjoining properties or from public domain.
- The non-compliance does not increase amenity impacts on future adjoining developments.
- There will be no unreasonable amenity impacts to neighbouring properties with regard to view loss, visual bulk, privacy or overshadowing as a result of the minor variation to the floor space ratio development standard.
- The proposed development provides soft landscaping for 44% of the site area allowing sufficient area for stormwater infiltration and vegetation planting to provide shade. The proposed development is within the environmental capacity of the site to sustain.
- Stormwater overflow will be disposed of to Council's requirements and earthworks comply with the guidelines provided in the Bankstown DCP.

It is therefore considered that there are sufficient environmental planning grounds to justify contravening the development standard in the circumstances of this case.

### **Conclusion**

As required by Clause 4.6(3) and (4) this written justification adequately demonstrates that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

- there are sufficient environmental planning grounds to justify contravening the development standard; and,
- 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;
- the concurrence of the Secretary is likely to be forthcoming because there is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard and there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this case.

## 5. Bankstown DCP

Bankstown DCP	
Front Setbacks	<p>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>Measured to the front wall of the dwelling.</p> <p><i>5.5m -ground floor</i>  <i>5.65m to the first floor.</i></p> <p><u>Planning Justification</u></p> <p>Objectives for Dwelling Houses</p> <p>The objectives are:</p> <p>(a) To ensure lot sizes provide adequate space for dwellings, setbacks to adjoining residential land, landscaped areas, open space, driveways, vehicle manoeuvring areas and the like.</p> <p>(b) To ensure the building form, building design and landscaping of dwelling houses are compatible with the prevailing suburban character of the residential areas.</p> <p>(c) To ensure the building form and building design of dwelling houses provide appropriate amenity to residents in terms of private open</p>

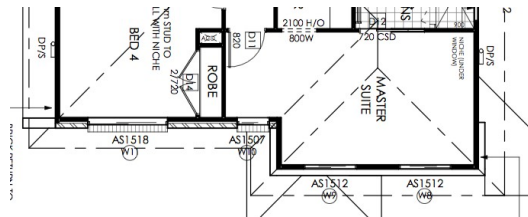
space, access to sunlight and privacy.

(d) To ensure the building form and building design of dwelling houses do not adversely impact on the amenity of neighbouring properties in terms of visual bulk, access to sunlight and privacy.

(e) To ensure the building form of dwelling houses in the foreshore protection area preserves the existing topography, land and rock formations, and the unique ecology of natural bushland and mangrove areas.

(f) To minimise the visual impact of off-street parking on the streetscape.

*It is considered that the proposed front setback to the first floor will not adversely impact the streetscape as the non-compliance applies to only 47.6% of the first floor front wall which is articulated. 52.4% of the first wall is stepped back by 1.06m and complies with the minimum front setback requirement of 6.5m.*



*In addition, the width of the first floor at the front elevation is less than the ground floor reducing the dominance of the first floor and the bulk and scale of the building from the public domain.*

*It is considered that the building form and building design including the proposed front setback is compatible with the prevailing suburban character of the low density residential area notwithstanding the numerical non-compliance.*

	<p><b>ELEVATION 1</b></p>
Side Setbacks/Building Envelope	<p>900mm for walls up to 7m 1.5m for walls &gt; 7m</p> <p><i>Complies - minimum 1m and 1.51m.</i></p>
Rear Setback	<p>Compatible with topography and adjoining dwellings.</p> <p><i>Complies.</i></p>
Minimum Landscaped Area/ Private Open Space	<p>A minimum of 45% of the area between a dwelling house and the primary frontage must be landscaped.</p> <p><i>The proposal achieves a landscaped area within the primary frontage of 49.1%.</i></p> <p>Dwelling Houses must provide a minimum of 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 5m throughout.</p> <p><i>The site is an undersized allotment. The minimum lot size is 450m<sup>2</sup>. For a site area of 450m<sup>2</sup>, the minimum POS is 80m<sup>2</sup> which is 17.8% of the site area.</i></p> <p><i>The proposed private open space area is 54.78m<sup>2</sup> for a site area of 324.8m<sup>2</sup>. This comes to 16.8% of the site area which is a similar percentage. The private open space is easily accessed from the internal living areas of the proposed dwelling.</i></p>
Maximum Building Footprint/Site Coverage	<p>If total impervious areas exceed 75% of the site then on-site detention is required.</p> <p><i>Footprint of dwelling: 143.8m<sup>2</sup> Area of driveway: 38m<sup>2</sup></i></p>

	<p><i>Total: 181.8 m<sup>2</sup></i></p> <p><i>Impervious Areas: 56%.</i></p>
Design/Garages	<p>Minimum is 2 spaces/dwelling. At least 2 parking spaces must be provided behind the building line.</p> <p><i>Complies.</i></p>
Site Orientation/Overshadowing	<p>The site has an east-west orientation.</p> <p>A minimum 50% of the private open space required for the adjoining dwellings must receive at least 3 hours of sunlight between 9am and 5pm at the equinox.</p> <p>At least one living area of a dwelling on an adjoining allotment must receive at least 3 hours sunlight between 8am to 4pm on June 21st. Where this standard cannot be met, the development must not result with additional overshadowing on the affected living area of the dwelling.</p> <p>Living Area: means any room or area used for normal domestic activities including living, dining, family, lounge, kitchen, sun room and play room.</p> <p>A minimum 50% of the private open space required for the adjoining dwellings must receive at least 3 hours of sunlight between 9am and 5pm 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 area.</p> <p>Development should avoid overshadowing any existing solar hot water system, photovoltaic panel, or other solar collector on an allotment and neighbouring properties.</p> <p><i>The site has an east-west orientation and shadows fall towards the adjoining dwelling house at 22 Wingara Street in the morning and afternoon during mid-winter.</i></p> <p><i>This rear POS of this adjoining property will have uninterrupted solar access from late morning onwards during the winter solstice.</i></p>

	<i>It is expected that there will be at least one living area that will receive more than 3 hours sunlight between 8am to 4pm on June 21<sup>st</sup>.</i>
Cut and Fill	<p>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:</p> <ul style="list-style-type: none"> <li>• The dwelling house is required to be raised to achieve a suitable freeboard (flood planning levels) or</li> <li>• 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.</li> </ul> <p><i>Maximum 600m<sup>2</sup> of fill retained within DEB. The site is flood affected and ground floor levels are determined by flood levels that apply to the site.</i></p>

**6. Matters for Consideration Pursuant to Section 4.15 (79C) of the Environmental Planning and Assessment (Amendment) Act, 1997**

**(a) The provisions of:**

- (i) Any environmental planning instrument;**
- (ii) Any draft environmental planning instrument;**
- (iii) Any planning agreement;**
- (iv) Any development control plan;**
- (v) Any matters prescribed by the regulations;**
- (vi) Any coastal management plans that apply to the land to which the development application relates.**

The proposed dwelling house at 20 Wingara Street Chester Hill complies with the development standards contained within the *Bankstown Local Environmental Plan 2015* with the exception of floor space ratio. A written request for a variation to a development standard under Clause 4.6 of the LEP has been prepared as part of this report. The proposal complies with the guidelines for development contained in the Bankstown Development Control Plan 2015. Any departure from the numeric controls is considered to be minor and is justified in the table above.

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

- It is considered that the proposed development will not have an adverse impact on the environment.
- Stormwater will be disposed of according to Council requirements and sedimentation will be appropriately controlled during construction.

- It is considered that the potential impact of the proposed development in terms of privacy and solar access to adjoining residences is reasonable.
- The social and economic impacts of the development are considered minor due to the size of the development proposal.

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

- The site is considered suitable for the construction of a two storey dwelling house and has no major environmental constraints to development.

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

- The development will be subject to Council's Notification Policy.

***(e) The public interest***

- The proposed development will make a positive contribution to the existing housing stock and is recommended for approval.