
STATEMENT OF ENVIRONMENTAL EFFECTS

Unit 4, 10-28 Biloela Street
Villawood NSW 2163

Issue B

17 October 2022



SILVER END
PTY LTD

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Introduction

The proposal is seeking Council approval to the use of the existing unit as a food and drink premise at 10-24 Biloela St, Villawood.

The proposal also seeks Council retroactive approval for the use of the unauthorised alteration and addition at the premise.

The following unauthorised works have been undertaken without Council's approval:

- The construction of bar/counter
- The construction of an awning (approximately 50 sqm.) above the outdoor dining area

The application seeks to formalise the existing unauthorised works undertaken at the premise. The structural details of all unauthorised works are delineated in the Building Information Certificate lodged with this application.

The Statement of Environmental Effects addresses the matters for consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979*.

Site and Locality Description

The site is legally described as Lot 491 of DP 856777, known as 10-28 Biloela Street Villawood. The subject site is located on the Northern side of Biloela Street. The subject unit (4) is a double storey unit and has an area of 2268sqm. Surrounding developments consist of industrial and commercial development. Residential houses are located on the opposite side of Biloela Street. Photographs of the subject site are provided below.



Figure 1: Subject site (Source: Maps six)



Figure 2: Unit 4

Development History:

- DA-202/2006 – Council approved the Alterations and Additions to Existing Industrial Development to Create Two Separate Tenancies, Modifications to the Carpark & Continued use of Both Warehouses for the Distribution and Warehousing with Ancillary Offices – Approved 22/05/2006.
- DA-988/2016 – Council approved the Use of premises as a gymnasium and martial arts centre & associated signage – Approved 08/06/2017

Construction works for the following have been undertaken without development consent:

- The construction of bar/counter
- The construction of an awning (approximately 50sqm.) above the outdoor dining area

On 22/07/2022, an email was sent to the owner requesting clarification regarding the followings:

- The alleged unlawful use of the premises for the purposes of a ‘food and drink premises’;
- The alleged unlawful construction of a bar/counter used for coffee making and food storage (photo attached); and
- The alleged unlawful construction of an awning (approximately 50 sqm) above the outdoor dining area.

Since development consent cannot be granted for the structure that has been already built, this development application seeks Council’s retrospective approval for the use of the bar/counter and the outdoor awning.

Building Information Certificate is an essential requirement for the grant of development consent in respect of the use of the existing unlawful structure. It is understood that the submitted building certificate would prevent the council from making an order (or taking proceedings for the making of an order or injunction) under the *Environmental Planning and Assessment Act 1979* or the LG Act requiring the building to be repaired, demolished, altered, added to or rebuilt.

For the reasons identified above, a Building Information Certificate has been lodged with this development application.

This application seeks Council's approval for the use of the unauthorised works. The development also seeks council approval to use the premises as food and drink premise. Details of the proposed development are demonstrated in the following submitted documentation:

- Architectural Plans Prepared by A&H Eco Group Pty Ltd, Revision A, Date 7/10/2022, incorporating the following drawings:
 - Site Plan
 - Existing Floor Plan
 - Sections A-A and B-B
 - Site plan & Parking allocation Plan
- Waste Management Plan

Assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979

Following is the discussion of matters arising in relation to section 4.15 of the *Environmental Planning & Assessment Act 1979* relevant to this application.

Section 4.15 (1)(a)(i) – Environmental Planning Instruments

Relevant provisions considered under section 4.15(1)(a) of the *Environmental Planning & Assessment Act 1979* are:

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

The provisions of Chapter 4 require that 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.

The development sits within an established industrial area, and it is not considered likely that the area concerned would be affected by contamination, given its continued use as industrial development for several years. On this basis, further investigation is not required, and the site is deemed suitable.

The site is considered suitable for the proposed development and the development application satisfies the provisions of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 11 Georges Rivers Catchment

The site is located within an area that is identified as within Georges River Catchment, and thus Chapter 11 of SEPP (Biodiversity and Conservation) 2021 applies. The general aims and objectives of this chapter are as follows:

- a) to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
- (b) to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- (c) to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
- (d) to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*

(e) to provide a mechanism that assists in achieving the water quality objectives and river flow objectives agreed under the Water Reform Package.

Part 11.2 of SEPP (Biodiversity and Conservation) 2021 contains a series of planning principle which are to be taken into consideration in the determination of development applications.

The development is consistent with the requirements and objectives contained in this chapter of SEPP (Biodiversity and Conservation) 2021.

Bankstown Local Environmental Plan 2015

The Bankstown Local Environmental Plan (BLEP) 2015 applies to the proposed development. An assessment of the development against the relevant sections of the BELP 2015 is provided below.

1.2 Aims of Plan

The proposal is consistent with all relevant aims of the BLEP 2015, specifically with the aim (g) “to provide a range of business and industrial opportunities to encourage local employment and economic growth”.

1.3 Land to which the Plan applies

The subject site is specified within the land application map.

2.2 Zoning of land to which Plan applies

The zoning of the land is specified within the land zoning map as IN1 General Industrial.

2.3 Zone objectives and Land Use Table

The proposal is consistent with the zone objectives in that it will encourage employment opportunities, minimise any adverse effect of industry on other land uses, and support and protect industrial land for industrial uses.

Land use table

The subject site is zoned IN1 General Industrial under the provisions of BLEP 2015 (Figure 3).

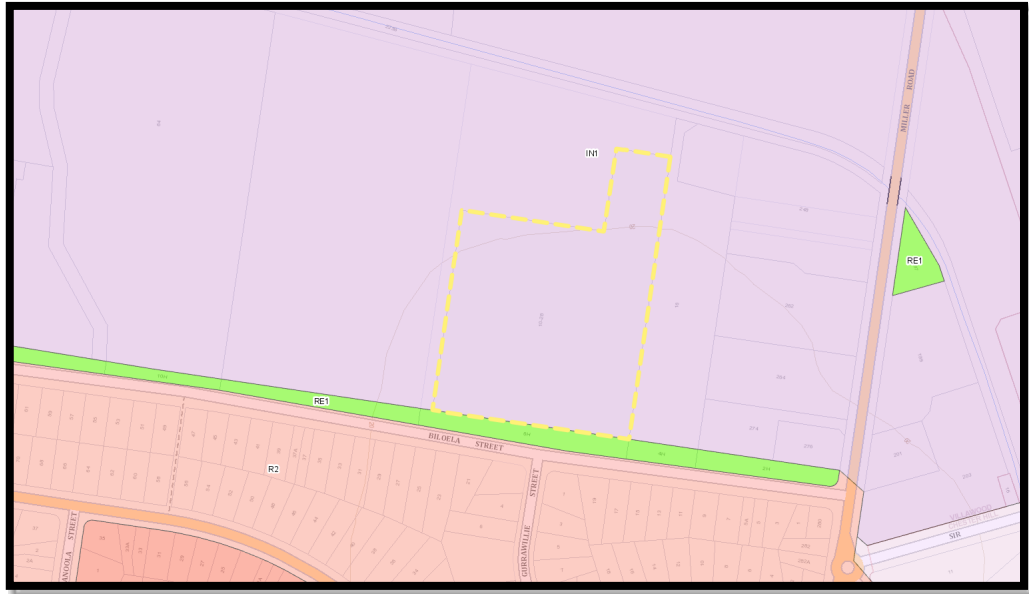


Figure 3: BLP 2015 Zoning Map (ePlanning Spatial Viewer)

1 Objectives of Zone

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*

The proposal is consistent with the zone objectives in that it will encourage employment opportunities, minimise any adverse effect of industry on other land uses, and support and protect industrial land for industrial uses.

3 Permitted with consent

Agricultural produce industries; Building identification signs; Business identification signs; Depots; Food and drink premises; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Hospitals; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Markets; Medical centres; Neighbourhood shops; Oyster aquaculture; Places of public worship; Plant nurseries; Roads; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

The proposed café is considered as Food and drink premises, which is permitted with consent.

4.3 Height of buildings

No Height requirement has been identified on the Height of Building Map (Figure 4).



Figure 4: BELP 2015 Height of Building Map (ePlanning Spatial Viewer)

4.4 Floor space ratio

The Maximum floor space ratio of the site is 0.1:1 applies (Figure 5).

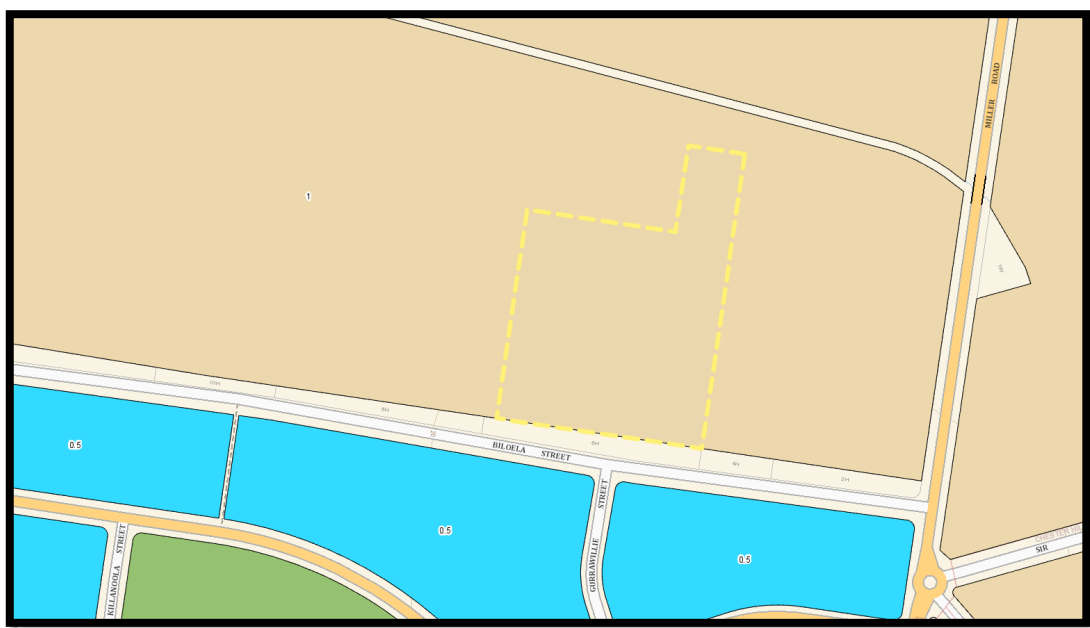


Figure 5: BELP 2015 FSR Map (ePlanning Spatial Viewer)

The proposal does not increase the approved FSR.

4.6 Exceptions to development standards

The proposal does not seek any variation to the development standards of the BELP 2015.

5.4 Controls relating to miscellaneous permissible uses

Controls of this clause do not apply to the proposal.

5.21 Flood planning

As per the Section 10.7 Planning Certificate, issued by Council (Certificate No. 20226064, dated 5 August 2022), *“the land, or part of the land, is within the flood planning area (FPA) and consequently the probable maximum flood (PMF). The land, or part of the land, is subject to flood-related development controls”*.

The proposal does not seek to alter the existing floor level of the unit. As such, no flood related development controls apply to the proposal.

Council may consider imposing relevant conditions of consent.

6.1 Acid sulfate soils

As per the Section 10.7 Planning Certificate, issued by Council (Certificate No. 20226064, dated 5 August 2022), *“the land is not affected by a policy restriction relating to acid sulfate soils”*.

6.2 Earthworks

No Earthwork is proposed.

6.4 Biodiversity

Not applicable to the subject development.

6.4A Riparian land and Watercourses

Not applicable to the subject development.

The proposal is considered to satisfy the relevant aims, provisions, standards and controls contained within the BELP 2015.

Section 4.15(1)(a)(ii) - Proposed environmental planning instruments

Draft Canterbury Bankstown Local Environmental Plan 2020

The proposal is not inconsistent with the Draft Canterbury Bankstown Local Environmental Plan 2020.

Section 4.15(1)(a)(iii) – Development Control Plans, Council Policies or Codes

Bankstown Development Control Plan 2015

The proposal has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Bankstown Development Control Plan (BDCP) 2015. The following table provides a summary of the development application against the controls contained in BDCP 2015:

| Part B5 – Residential Development | | | |
|---|--|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| Site coverage | 2.1 The sum of the site coverage on an allotment must not exceed: (a) 70% of the site area if a single business is to occupy the allotment; or (b) 60% of the site area if two or more businesses are to occupy the allotment | The proposal does not increase the site coverage. | N/A |
| Setbacks to the primary and secondary road frontages of allotments | 2.2 Where allotments adjoin a state or regional road (refer to Appendix 1), the minimum setback for development to the primary and secondary road frontages is 15 metres. | Site setbacks remain unchanged. | N/A |
| | 2.3 Where allotments do not adjoin a state or regional road, the minimum setback for development: | Site setbacks remain unchanged. | N/A |

| Part B5 – Residential Development | | | |
|---|--|--|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| | (a) to the primary road frontage is 10 metres; and (b) to the secondary road frontage is 3 metres | | |
| Setbacks to the side and rear boundaries of allotments | 2.5 Council may require minimum setbacks to the side and rear boundaries of an allotment: (a) to maintain reasonable solar access or visual privacy to neighbouring dwellings; or (b) to avoid an easement or the dripline of a tree on an allotment or adjoining allotment; or (b) to comply with any multi-level risk assessment undertaken for a development that ascertains the need for an appropriate setback or buffer zone between the development and any adjoining or neighbouring land within a residential zone. | No changes to the site and rear setbacks are proposed. | N/A |
| Facade design | 3.1 Development must articulate the facades to achieve a unique and contemporary architectural appearance that: (a) unites the facades with the whole building form; (b) composes the facades with an appropriate scale and proportion that responds to the use of the building and the desired contextual character; | The scale, design, material and finishes of the awning are considered appropriate for the proposed use and consistent with the existing facades. | Yes |

| Part B5 – Residential Development | | | |
|--|---|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| | (c) combines high quality materials and finishes; (d) considers the architectural elements shown in the illustration to this clause; and (e) considers any other architectural elements to Council's satisfaction. | | |
| | 3.6 Development must use: (a) quality materials such as brick, glass, and steel to construct the facades to a development (Council does not permit the use of standard concrete block); and (b) masonry materials to construct a factory unit within a building, and all internal dividing walls separating the factory units. Despite this clause, Council may consider a small portion of the street façade to comprise metal sheet or other low maintenance material provided it complies with the Building Code of Australia. | The material and finishes of the awning are considered appropriate for the proposed use and consistent with the existing facades. A BCA report accompanies this application. | Yes |
| Roof design | 3.10 Development must incorporate an innovative roof design that: (a) achieves a unique and contemporary architectural appearance; and | No changes to the roof design are proposed. | N/A |

| Part B5 – Residential Development | | | |
|--|--|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| | (b) combines high quality materials and finishes. | | |
| General | <p>3.18 Council must take into consideration the following matters for development in the industrial zones:</p> <p>(a) whether the proposed development will provide adequate off-street parking, relative to the demand for parking likely to be generated;</p> <p>(b) whether the site of the proposed development will be suitably landscaped, particularly between any buildings and the street alignment;</p> <p>(c) whether the proposed development will contribute to the maintenance or improvement of the character and appearance of the locality;</p> <p>(d) whether access to the proposed development will be available by means other than a residential street but, if no other means of practical access is available, the consent authority must have regard to a written statement that:</p> <p>(i) illustrates that no alternative access is available otherwise than by means of a residential street; and</p> | <p>(a) Refer to the discussion provided in Part B5 -Parking – compliance table.</p> <p>(b) The proposal does not include any vegetation removal.</p> <p>(c) The proposal will improve the use of this unit as it would provide services to the local business and residential area.</p> <p>(d) Biloela is an industrial street with residential development on the opposite side of it.</p> <p>The proposal is not for a w industrial development. It only relates to the use of the existing unit. As such, this control does not apply.</p> <p>(e) The proposed use will not require bulk storage of goods.</p> <p>A storage area is allocated within the existing unit.</p> <p>(f) The proposal is related to the use of the existing industrial unit that is located on the opposite side of residential use.</p> | Yes |

| Part B5 – Residential Development | | | |
|--|--|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| | <p>(ii) demonstrates that consideration has been given to the effect of traffic generated from the site and the likely impact on surrounding residential areas; and</p> <p>(iii) identifies appropriate traffic management schemes which would mitigate potential impacts of the traffic generated from the development on any residential environment;</p> <p>(e) whether goods, plant, equipment and other material used in carrying out the proposed development will be suitably stored or screened;</p> <p>(f) whether the proposed development will detract from the amenity of any residential area in the vicinity; and</p> <p>(g) whether the proposed development adopts energy efficiency and resource conservation measures related to its design, construction and operation.</p> | <p>Sufficient distance and screen planting between the industrial complex and the residential area exist.</p> <p>(g) the proposed use will continue to adopt energy efficiency measures</p> | |
| Acoustic privacy | <p>4.1 Development must:</p> <p>(a) consider the Industrial Noise Policy and the acoustic amenity</p> | <p>Noted.</p> <p>Council may consider imposing relevant conditions of consent.</p> | Yes |

| Part B5 – Residential Development | | | |
|--|---|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| | of adjoining residential zoned land; and (b) may require adequate soundproofing to any machinery or activity that is considered to create a noise nuisance. | | |
| Pollution control | 4.2 Development must adequately control any fumes, odour emissions, and potential water pollutants in accordance with the requirements of the relevant public authority. | Noted. Council may consider imposing relevant conditions of consent. | Yes |
| Food premises | 5.8 The design, construction, and operation of a food premises must comply with: (a) Food Act 2003; (b) Food Regulation 2010; (c) FSANZ Food Standards Code; and (d) AS 4674:2004 Design, Construction, and Fitout of Food Premises. | Noted. Council may consider imposing relevant conditions of consent. | Yes |
| Storage areas | 5.9 The storage and use of hazardous materials must comply with the requirements of WorkCover NSW and other relevant public authorities. | Noted. Council may consider imposing relevant conditions of consent. | Yes |
| | 5.10 The storage and use of dangerous goods must comply with the Dangerous Goods (Road and Rail Transport) Act 2008 and its regulations, and | Noted. Council may consider imposing relevant conditions of consent. | Yes |

| Part B5 – Residential Development | | | |
|--|---|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| | any other requirements of WorkCover NSW. | | |
| Infrastructure | 5.11 The siting of a telecommunication facility, aerial, satellite dish, plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must: (a) integrate with the architectural features of the building to which it is attached; or (b) be sufficiently screened when viewed from the street and neighbouring residential zoned land. | No change is proposed. Council may consider imposing relevant conditions of consent. | N/A |
| | 5.12 External lighting to industrial development must give consideration to the impact of glare on the amenity of adjoining residents. | No change is proposed. Council may consider imposing relevant conditions of consent. | N/A |
| | 5.13 Council may require development to include public domain improvements to an adjacent footpath in accordance with a design approved by Council's Landscape Architect. | No change is proposed. Council may consider imposing relevant conditions of consent. | N/A |

| Part B5 - Parking | | | |
|---------------------------|---|--|--------|
| Clause | Objectives/Controls | Proposed | Comply |
| Off-street parking spaces | <p>2.1 Development must calculate the amount of parking required using the schedule of off-street parking requirements.</p> <ul style="list-style-type: none"> • outside above areas <p>0.15 car space per square metre of total dining or bar area.</p> <p>Note 1: Part B5 aims to encourage small restaurants within existing commercial centres. For restaurants on busy roads obviously oriented to passing traffic, the higher assessment rate applies. The change of use to a shop or office, sometime in the future, would be dependent on the provision of additional parking. This advice will be contained within the determination notice for the development.</p> <p>Note 4: Total dining bar area means all of those parts of a restaurant, catering or reception centre where customers order or are served food or drink, and includes waiting areas</p> | <p>The restaurant has been allocated 32 Private spaces.</p> <p>Northern outdoor dining area 68.80sqm</p> <p>Sitting Area: 15.058sqm</p> <p>Restaurant: 125.56sqm (without the bar and food preparation area</p> <p>Southern outdoor dining area: 29.9sqm</p> <p>Total Bar area 235.41sqm</p> <p>Required car parking space: 35</p> <p>For the following reasons, the reduced number of car parking spaces is acceptable, and the development can be supported:</p> <ul style="list-style-type: none"> - The complex has more than 130 spaces. - The site is in close proximity to both Leightonfield and Chester hill train stations. - The area is well-serviced by bus services. - On-street parking is available on the surrounding street. | Yes |

| Part B5 - Parking | | | |
|--------------------------|----------------------------|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| | | <ul style="list-style-type: none"> - Family members will attend the café in one car. This will reduce the need for parking spaces. - No additional need for parking space is anticipated for patrons who are also employees of other industrial units within the complex. | |

| B13 – Waste Management and Minimisation | | | |
|--|--|---|---------------|
| Clause | Objectives/Controls | Proposed | Comply |
| Section 2– Demolition and construction | 1.1 All development applications are to be accompanied by a Waste Management Plan prepared in accordance with the Waste Management Guide for New Developments and the Bankstown Demolition and Construction Guidelines. | A waste management plan accompanies this development application. Council may consider imposing relevant conditions of consent. | Yes |
| Development controls | 2.3 The location of the bin storage area should not adversely impact on the streetscape, building presentation or amenity of occupants and adjoining dwellings. | No changes to the approved location of the waste bins are proposed. | Yes |

In conclusion, the proposed development is generally compliant with the requirements of BDCP 2015.

Bankstown Development Contributions Plan 2019

The applicable development contribution may be imposed as a condition of consent.

Section 4.15(1)(a)(iiia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Not applicable.

Section 4.15(1)(a)(iv)] - the regulations that apply to the land to which the development application relates

The proposal is consistent with the provisions of the Environmental Planning and Assessment Regulation, 2021.

Section 4.15 (1)(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 likely impacts of the proposed development upon the surrounding area are discussed as follows:

- (i) Impact on the natural environment:
The proposal will not have any adverse impact on the natural environment.
- (ii) Impact of the built environment:
The proposed development will not adversely impact the existing built form as it complies with all development controls.
- (iii) Social and Economic impacts in the locality:
The proposal will not have any adverse social/economic impacts.

Section 4.15 (c) – the suitability of the site for the development

The subject site is appropriately zoned to allow the proposed development, and for the reasons outlined within this report, the site is considered to remain suitable for the proposed development.

Section 4.15(1)(d) any submissions made in accordance with this Act or the regulations

Council may undertake public notification procedures to ensure that neighbouring property owners have been provided with the opportunity to make submissions to the consent authority on the likely amenity and environmental impacts on their properties.

Section 4.15 (1)(e) - The Public Interest

The proposed development is consistent with the objects of the Environmental Planning and Assessment Act 1978 in so far as it promotes the economic use and development of the land.

The proposal is consistent with the public interest and the proposal is deemed to be satisfactory from an environmental planning perspective.

Conclusion

The proposal is seeking Council approval to the use of the existing unit as food and drink premise at 10-24 Biloela St, Villawood.

The proposal also seeks Council retroactive approval for the use of the unauthorised alteration and addition at the premise.

The proposal complies with the controls identified, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. In view of the assessment contained in this report, it is concluded that the proposal is satisfactory and acceptable having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.



Prepared by
Firas Naji
Building Surveyor – Fire Safety
Restricted All classes of building (BDC 3315)
Town Planning Consultant

www.silverend.com.au

Academic Qualifications

- Diploma of Architectural Technology - TAFE
- Bachelor of Design in Architecture - UTS
- Master of Urban Management and Planning - UWS
- Advanced Diploma of Building Surveying – TAFE