

STATEMENT FOR 8.2 REVIEW OF DETERMINATION



In support of 8.2 Review of Determination of DA/1040/2022
Adjustment to a boundary
At
18 Plasto Street,
Greenacre



Certification

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PRE-AMBLE

The following documentation is provided in accordance with the outlined deliverables relating to the request for a Statement of Environmental Effects in support of the adjustment to a boundary at 18 Plasto Street Greenacre. The Statement has been provided with a focus on the existing planning controls and consideration for past, present, and future planning regimes.

1. PRELIMINARIES

Request for Statement of Environmental Effects	Riccardo Darosa
Site Street Address	18 Plasto Street Greenacre
Legal Identifier	Lot 86 DP 12413
Total site area	640.5m ²
Local Government Area	Canterbury-Bankstown Council
Zone	R2 Low Density Residential
Bushfire	No
Flood	No

2. EXECUTIVE SUMMARY

This statement has been prepared by Civac on behalf of Riccardo Darosa in relation to the proposed retaining wall at 18 Plasto Street Greenacre. This statement addresses the relevant planning controls, planning proposals and other relevant planning data. The statement also reviews impacts and opportunities relating to State and Local EPI's and Draft EPI's in addition to the relevant DCP information and guidance.

Additionally, relevant strategic documents have been reviewed and their potential impacts and opportunities have been analysed. Finally, relevant recent planning approvals in a reasonable proximity to the site have also been reviewed and their impacts on the subject site have been identified.

The bulk of this analysis has focused on the proposal and the resultant relationship with the surrounding residential land uses. The intent of this document is to support the proposed development of the subject site.

It is our professional opinion that the revised proposal is consistent with the relevant plans and policies and there is no planning reason why the proposed boundary adjustment should not be approved.

THE PROPOSAL IN DETAIL

3. THE PROPOSAL

The application seeks approval for boundary adjustment and land transfer to No.18 Plasto Street, Greenacre. A redundant 120.2m² portion of land is to be taken from adjoining property at No. 20 Koala Road, Greenacre and transferred to No.18 Plasto Street, Greenacre.

Referring to Figures 1 below, the development re-adjusts the boundary of the subject site, increasing the size of the subject allotment to 640.5m² and decreased the size of No.20 Koala to 552.1m².

No significant trees or vegetation would be removed as a result of the development.

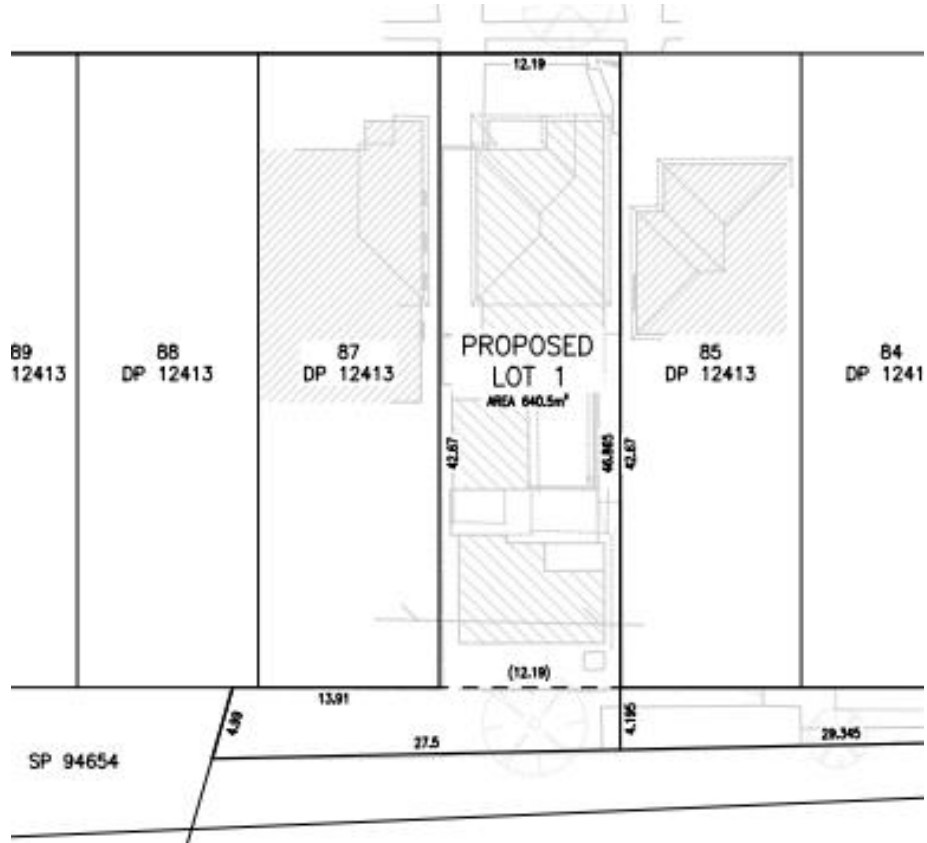


Figure 1: Plan of subdivision

Source: Skyline Architects

LOCALITY DESCRIPTION

4. THE SUBJECT SITE

The site is legally known as Lot 86 DP12413 and commonly referred to as No. 18 Plasto Street Greenacre. The allotment is an irregular shaped, with frontage to Plasto Street of 12m and an average depth of 43m equating to total site area of 708m². Currently the is occupied by a detached dwelling with landscaping and parking, with an inground swimming pool at the rear.

Topographically, the site is generally level with no significant geographical features and there are no known easements or restrictions that burden the site. Vehicle and pedestrian entry is gained via the site frontage on Plasto Street.

4.1 Site Surrounds

A review of the surrounds and site visit indicates that the predominant developments within the vicinity are various styles and types of residential uses including single, two storey dwellings divided up by an inconsistent subdivision pattern.

The sites surround consist of highly irregular shaped lots that have resulted in recently subdivided battle-axe properties. The figures below show highly irregular subdivision pattern that makes up the 'character' of the area:

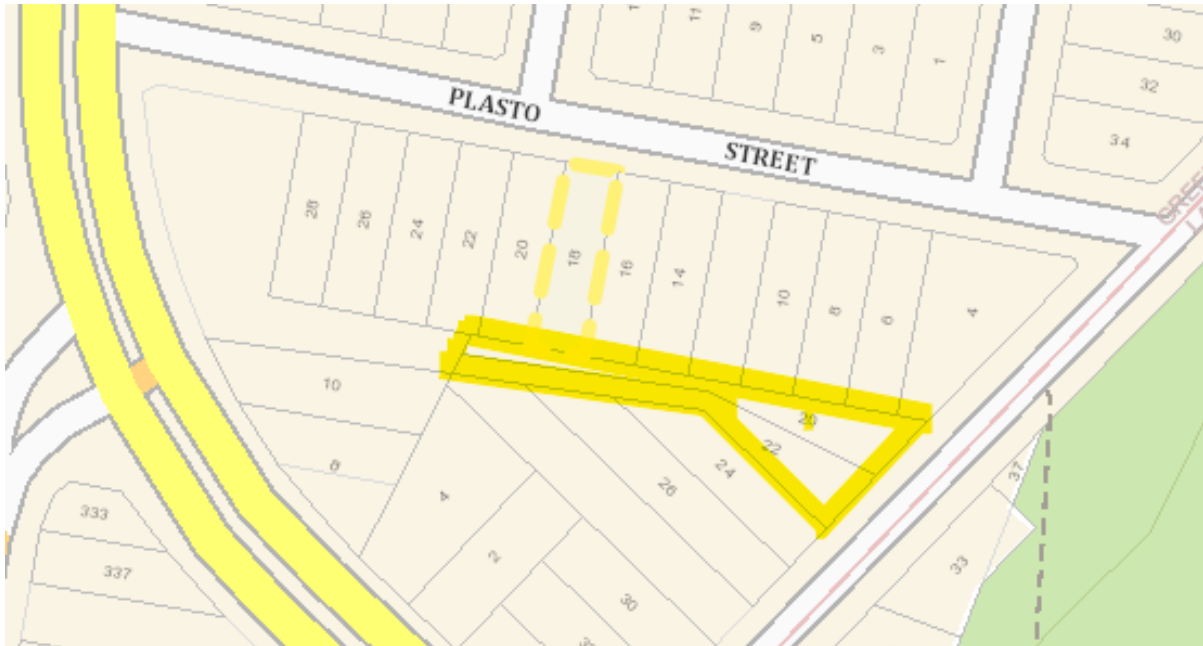


Figure 2: No.345,347, 342, 342A, 343B, 344 Roberts Road – irregular shaped allotments
Source: Skyline Architects



Figure 2: No. 345, 347, 342, 342A, 343B, 344 Roberts Road – irregular shaped allotments
Source: Skyline Architects

5. SITE HISTORY

The subject 8.2 review of determination relates to refused DA-1040/2022 for boundary adjustment between No.18 Plasto Street and No.20 Koala Road, Greenacre.

THE ASSESSMENT

6. CLAUSE 8.2 REVIEW OF DECISION UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Canterbury-Bankstown Council, as consent authority under the provisions of the *Environmental Planning and Assessment Act 1979*, gives notice under Section 4.16 of the Act, that the Development Application was refused for the following reasons:

1. *The development is considered to result in the unorderedly development of land [Pursuant to Section 1.3(c) of the Environmental Planning & Assessment Act 1979]; and*
2. *Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the general and/or specific objectives contained in the Bankstown LEP 2015 including: Section 4.1(1)(b) to ensure the subdivision of low-density residential sites reflects and reinforces the predominant subdivision pattern of the area.*
3. *Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory in terms of its standard of design and would adversely impact upon the existing and likely future amenity of the locality.*
4. *4. Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.*

In response to refusal **point 1)** It is argued that the development will promote and encourage greater opportunity for usages and management of the “tail-end” of Proposed Lot 2 (No.20 Koala Road) which is already a highly irregular lot.

The proposal satisfies the objectives of Section 1.3 of the Act in that the transfer of area from No. 20 Koala Road, Greenacre to No.18 Plasto Street allows for the proper management of land that is currently un-used by the present owner and more readily available to No.18 Plasto Street which shares a boundary with this site.

This portion of land cannot be developed on and is highly inaccessible to the current lot No.20 Koala Road, leaving opportunity for unmanaged land, for example, overgrown grass and weeds can attract pests like rodents and snakes, which can pose a risk to people living nearby. It can also become a breeding ground for mosquitoes. Neglected and unmanaged land can decrease property values in the neighbourhood as it can make the neighbourhood look run-down and unattractive.

The proposed development fosters both economic, environmental and social engagement by transferring a redundant portion of land to the subject site, where there is greater opportunity for better environmental, economic and social use of the land.

Orderly development of land refers to a planned and systematic approach to how land is developed, used, and managed over time. The goal of orderly development is to ensure that land is used in a way that maximizes its potential while minimizing negative impacts on the environment and the community. We submit that the transfer of land will improve on the usage and management of land, leading to a better environmental and social outcome.

It is argued that the transfer of land will not result in unorderedly development of land as it is clear that this portion will not be developed on regardless of its ownership whether it be the current or proposed owners. We argue that Council itself has departed from the objective of Section 1.3(c) in creating a highly irregular allotment (No.20 Koala Road) which in its current state cannot be wholly utilised or developed, meaning the rear portion of the site is redundant.

As such, we submit that there is opportunity, despite not being capable of development, that the 4.1m wide area can be used and managed appropriately by No.18 Plasto Street resulting in more orderly usage and management of land satisfying Section 1.3(c) of the *EPA & Act 1979*.

In response to refusal **point 2)** it is argued again that the proposed development reinforces the predominant subdivision pattern of the area that is characterised of highly irregular allotments.

Reference to Figure 1 and 2 is made in support of the argument that the “character” of the area is in fact made up of irregular lots as seen from aerial/cadastral view. Particularly the two rear adjoining properties at No. 20-22 Koala Road, Greenacre which feature a highly irregular lot pattern. In addition, properties No. 342 to 347 demonstrate irregular lots as shown in Figure 2 above. Within the immediate streetscape Lots of No.20, No.22, No.24 and particularly No.329 Roberts Road, Greenacre, show I-shaped allotments where a portion of the lot at the rear also remains unable to be developed. As such these lots themselves are considered atypical and irregular themselves establishing the character of Greenacre.

It is argued that these irregular lots provides support to the proposal in that they make up the streetscape and character of the neighbourhood therefore the transfer of land would in fact be consistent with the subdivision pattern of the area.

With regards to refusal **point 3)** currently this “tail-end” is unmanaged and undevelopable. The proposal will provide opportunity for the granny flat of No.18 Plasto Street to have sufficient area for a backyard and gardening. This transfer of land to No.18 Plasto Street is also not capable of accommodating any buildings on this portion given its narrowness, therefore its sole purpose will be dedicated to improving amenity for residents.

The development will have no detrimental impact on the amenity of the area as viewed from the street as the boundary adjustment will have no visible impact on the streetscape. The transfer of land will not be discernible to members of the community only when and if looking at the cadastre mapping would the lot be visible.

All physical and built structures will remain as is on both No.18 Plasto and No.20 Koala.

Furthermore, the transfer of land allows No.18 Plasto Street to eventually sell apportion of land to its adjoining neighbour at No. 20 Plasto Street creating an entirely uniform, rectangular allotment.

With regards to refusal **point 4)** as discussed above, the development would not be discernible to members of the public. In fact, the transfer and boundary adjustment would assist in improving the amenity of No.18 and its surrounding neighbours encouraging landscaping, appropriate usage and management of the land.

The proposal adds to the opportunity for increased usage of land and management within the appropriate R2 Zone while giving purpose to an already redundant piece of land.

7. CLAUSE 4.15 THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

7.1 The Provisions of any Environmental Planning Instrument (EPI)

7.1.1 State Environmental Planning Policy (Resilience and Hazard)

Chapter 4 Remediation of Land

The aim of Chapter 4 within this policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Part 4.6 requires that consent not be granted until Council has considered whether the land is contaminated.

The subject site has historically been used as a residential allotment and not for any other purpose. No evidence of contamination was observed during inspection of the site. Thus, no further assessment is required in this regard.

7.1.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-rural Areas

Chapter 2 of the Biodiversity and Conservation SEPP aims to ensure that the value of trees and other vegetation in non-rural area are protected. In accordance with the objectives of the chapter the clearing of native vegetation requires approval. No further assessment is required in this regard.

Chapter 6 Bushland in urban areas

Chapter 6 of the Biodiversity and Conservation SEPP aims to ensure that bushland is preserved within urban area. No significant bushland species or remanent plant communities are located on the site and property does not fall within the Biodiversity Value map area. Therefore, no further assessment is required in this regard.

7.2 Bankstown Local Environmental Plan 2015

The following elements of the LEP are applicable to the proposal:

PART 1 – INTRODUCTION

Clause 1.2 Aims of Plan

Aim

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,

Response

The landscape is enhanced by the upgrading in materials and construction of the wall and fence. The landform is maintained and protected by the works

PART 2 PERMITTED OR PROHIBITED DEVELOPMENT

The proposal remains defined as a:

- Subdivision

2.6 Subdivision—consent requirements

(1) Land to which this Plan applies may be subdivided, but only with development consent.

Notes: If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Act enables it to be carried out without development consent.

Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is complying development.

(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

Response

The proposal complies with this element of the plan.

The following relevant objectives are met by the proposal:

Aims

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

Response

The proposal allows the site to continue to respond to this aim.

PART 4 – PRINCIPAL DEVELOPMENT STANDARDS

Control	Required	Provided	Comment
Minimum Lot size	450m ²	640.5m ² Proposed Lot 1	COMPLIES
	450m ²	552.1m ² Proposed Lot 2	COMPLIES

The proposal complies with the relevant development standards. The proposed boundary adjustment meets the objectives of the minimum lot size zone.

While every planning decision must be considered on its own merits, and no decision in relation to one application binds a consent authority in relation to any future development application the findings within the above court cases reflect a general precedence for development which, by its own standards, meets the objectives of the zone and numerical lot sizes.

Appeal was upheld by justice Gray C within **Donnellan v Armidale Regional Council [2018] NSWLEC 1372** under NSW Land and Environment Court findings that concluded:

I have determined that the lot layout and design is appropriate in the circumstances of the case. That lot layout and design responds to the context of an existing irregularly shaped lot, complies with minimum frontage controls, and meets the minimum lot size development standard. As a result, the lot layout and design is not one that I consider to be “objectionable in itself”. Therefore, I do not consider the two-lot subdivision as one that would create an undesirable precedent on the basis of lot layout and design. Additionally, any precedent for irregularly shaped lots was already created by the approval of the Torrens title subdivision that created Lot 2, an irregular shape, as well as the adjacent Lot 3, with which proposed Lot 7 is identical. The present application makes the best use of Lot 2 to create one lot (proposed Lot 6) in a better battle-axe shape than the current shape of Lot 2, and another lot (proposed Lot 7) that is identical to the adjacent Lot 3.

Similarly, the proposed development would maintain the general atypical subdivision pattern in the area whilst providing opportunity to improve on the orderly use of land.

7.3 The provisions of any Draft Environmental Planning Instrument (EPI)

The Draft Consolidated Local Environmental Plan seeks to produce a single set of planning rules for Canterbury Bankstown. 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. As it stands, the consolidated LEP has not come into effect, therefore, no further assessment is required in this regard.

7.4 The provisions of any Development Control Plan (DCP)

There are no changes to the subject sites responses to the development control plan and there are no non-compliances that result from the boundary adjustment.

7.5 Planning agreements or draft planning agreements

There are no planning agreements or draft planning agreements submitted under Section 7.4.

7.6 The Likely Impacts

Environmental

The assessment has shown that any environmental impacts resulting from the proposal will be negligible. Regard is shown for the natural environment in terms of on-site management of stormwater and drainage, with appropriate measures incorporated into the overall design that operate in concert with the areas of landscaping provided. The proposal satisfies the requirements of both the natural and built environments.

Social

The proposal adds to the opportunities for an appropriate land use, allowing for a mix of residential typology within the R2 Zone. The proposal allows for greater usability and functionality of the site. The proposal is consistent with the social requirements in these regards.

Economic

The provisions of the opportunity within this appropriately zoned locality, will allow a contribution to the increased longevity of the property and use by homeowners whilst showing regard for the requirements and objectives within the R2 Zone.

7.7 Site Suitability

The site suitability is indicated by the appropriate land use being located within the appropriate R2 Zone. The proposal has demonstrated compliance with the standards and controls together with a consistency of all underlying objectives of both State and Local policies. The application is considered acceptable with regards to suitability of the site.

7.8 Submissions

There have been no submissions received from any public person, private or Government Authorities at the time of the preparation of this report.

7.9 The Public Interest

The public interest is served by the provision of the appropriate land use that is consistent with Local and State planning objectives. The land use responds at a strategic level to desired planning outcomes together with increased value of the property within the region and the Canterbury Bankstown LGA specifically. The proposal is consistent with the underlying objectives of the EP&A Act in that it is an appropriate and economical use of the available resource.

CONCLUSION

8. CONCLUSION

This Statement of Environmental Effects has provided an assessment of the proposed works against the relevant provisions of the Bankstown Local Environmental Plan (BLEP), the subject site is located within the zone thus the proposal is considered to satisfy the zone objectives at a strategic level.

The project, located within suburban Greenacre, offers an opportunity for the upgrading of the site which will provide for and contribute to the residential diversity in this precinct. The proposal has demonstrated consistency with the underlying objectives of the controls and compliance with the numerical standards contained within both State and Local policies. We submit that the proposal is consistent with Councils expectations and there is no planning reason why this proposal should not be approved.