

Statement of Environmental Effects

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for:

Smart Choice Granny Flats

SITE:

58 Parry Avenue, Narwee

Lot 92, DP 210493

PROPOSAL:

Erection of a detached secondary dwelling

Date:

24 Oct 2023

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ABBREVIATIONS & ACRONYMS

CC	Construction Certificate
DA	Development Application
DC	Development Consent
DCP	Development Control Plan
DSZ	Deep Soil Zone
EP&A Act	Environmental Planning and Assessment Act 1979
FFL	Finished Floor Level
FSR	Floor Space Ratio
GFA	Gross Floor Area
HSEPP	State Environmental Planning Policy (Housing) 2021
LEP	Local Environmental Plan
LRS	Land Registry Services NSW
NGL	Natural Ground Level
POS	Private Open Space
SEE	Statement of Environmental Effect
SEPP	State Environmental Planning Policy

Executive Summary

This Statement of Environmental Effects has been prepared by KP Planning to accompany a Development Application submitted to Canterbury-Bankstown Council, and is to be read in conjunction with:

- Site survey by Streamline Surveyors, Ref 2023267D date drawn 27/09/23.
- Architectural plans prepared by Smart Choice Granny Flats, issue 3 dated 17/10/23.
- BASIX Certificate 1373201S dated 19/10/23.
- Stormwater plan by Capital Engineering Consultants, dated October 2023.

The subject site is 467m² in area and currently contains a single storey dwelling partly over a garage, and a carport. It is proposed to retain the existing dwelling and carport, and to erect a detached secondary dwelling (granny flat) at the rear of the site.

The zoning is R3 Medium Density Residential under Canterbury-Bankstown Local Environmental Plan (LEP) 2023.

The plans and accompanying documentation have been assessed under Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act). The plans comply with the provisions of State Environmental Planning Policy (Housing) 2021 (HSEPP), Canterbury-Bankstown LEP 2023 and Canterbury-Bankstown Development Control Plan 2023 (DCP 2023) as they relate to secondary dwellings.

It is recommended that Council issue Development Consent.

Site & Locality

The subject site is 58 Parry Avenue, Narwee – lot 92 in DP 210493. The block is an irregular shape with a site area of 467m². It is located on a bend in the street, and backs onto the M5 Motorway.

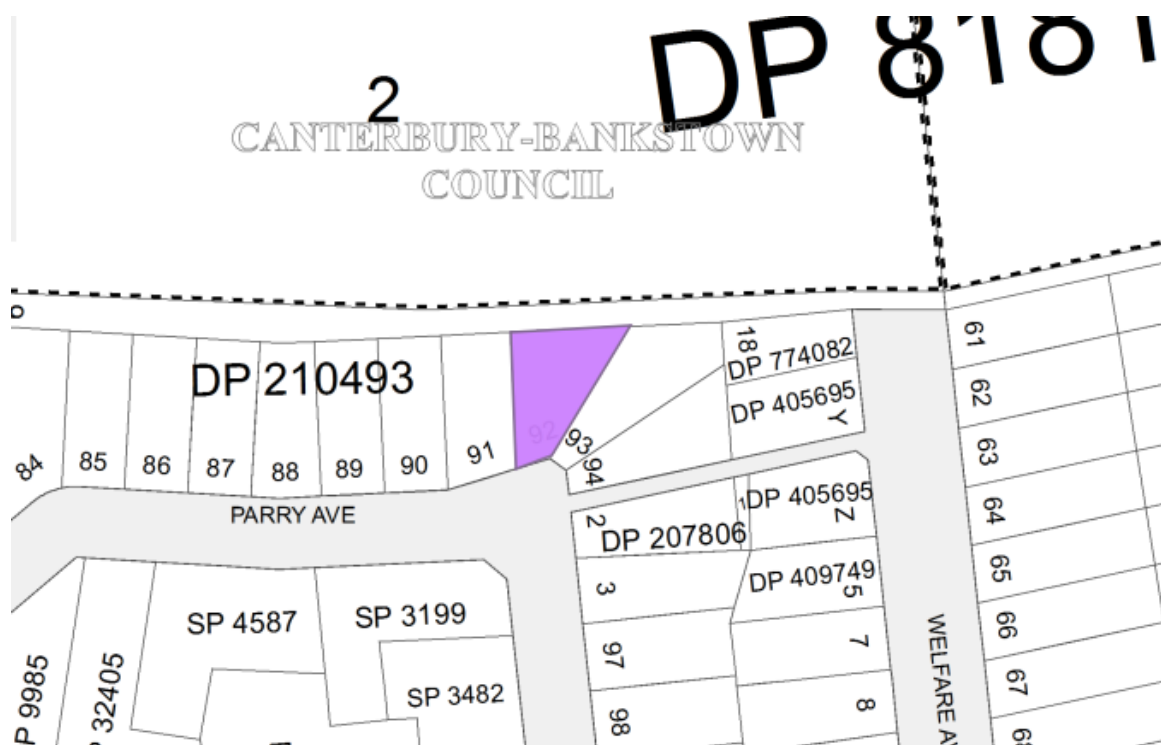
Currently existing on the site is a single storey brick dwelling with tile roof, partly over a garage. A single carport sits within the front setback.

The land has a natural fall from the rear down to the front. There are no significant trees on site or on the nature strip. A concrete footpath with overhead wires runs along the street frontage.

The site is adjoined:

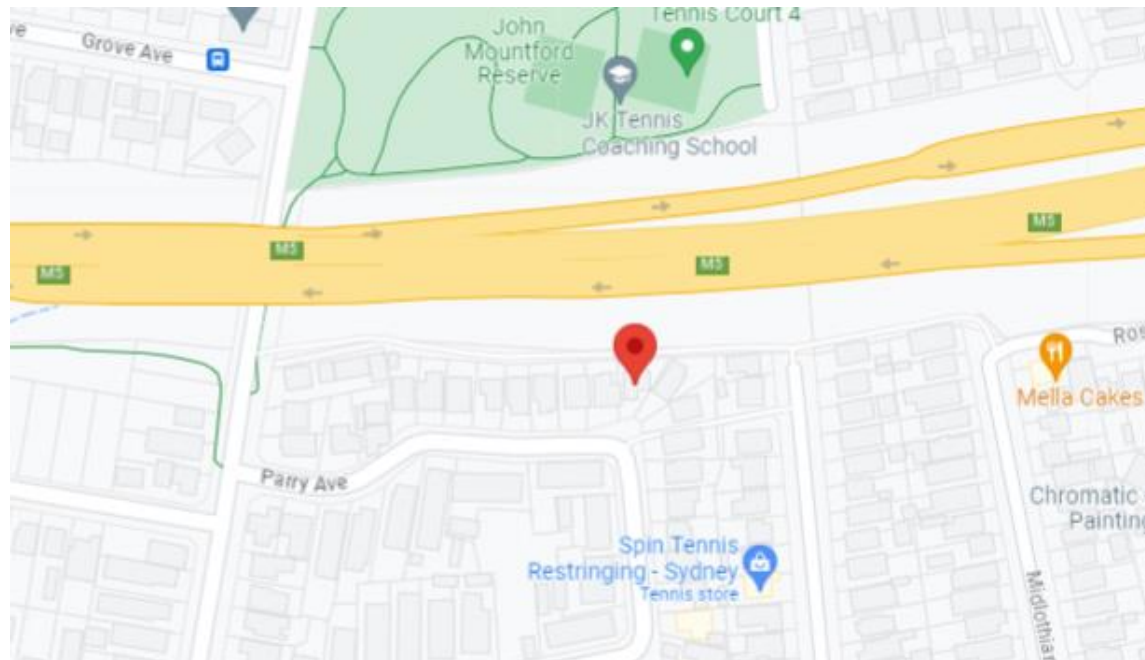
- on the eastern side by a single storey dwelling house - known as 56 Parry Ave,
- on the western side by a single storey dwelling house - known as 60 Parry Ave, and
- to the rear by the M5 Motorway.

The site is well serviced by public transport (buses run along Penshurst Road & Narwee train station is only 500m away), retail outlets, places of worship, schools, open space and other public facilities, with nearby industrial and commercial areas also providing employment opportunity.



Subject Site – lot 92 DP 210493

Source: LRS



Wider Locality

Source: Google Maps



Existing street view. Dwelling, carport & driveway to remain Source: Google Maps



Subject site and surrounds

Source: Six Maps

The Proposal

The existing dwelling, garage, driveway and carport will remain unaltered.

The new detached granny flat will be located at the rear of the site. It has a floor area of 52.63m². Rear setback is 950mm. East side setback is 950mm or more. West side setback is 10.2m or more.

The granny flat has two bedrooms, a bathroom with laundry nook, and open plan kitchen/living/dining room. It is setback 2.16m from the principal dwelling. Private open space is provided in the NW corner of the site.

External walls will be brick. A 15-degree pitched tiled roof and aluminium windows and sliding door are proposed. A 2000 litre rainwater tank will be provided as per BASIX requirements. Stormwater will be connected to the existing system.

Section 4.15 Assessment

Section 4.15 (1) of the EP & A Act 1979 states:

Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) *the provisions of:*

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (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, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) (repealed)*

(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,*

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

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

(e) *the public interest.*

These matters for consideration are discussed below.

a) PROVISIONS OF EPIs, DCPS, etc

i) Any Environmental Planning Instrument

State Environmental Planning Policy (Resilience and Hazards) 2021

A consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

The subject site is currently used for residential purposes and has been for many years. There is no evidence to suggest that the land has been used for any of the uses listed in Appendix 1 of the *contaminated land planning guidelines* or that it has otherwise been contaminated in any way.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A current BASIX Certificate has been submitted with the DA. BASIX commitments have been shown on plans.

State Environmental Planning Policy (Housing) 2021 (HSEPP)

The granny flat is a secondary dwelling as defined under the Standard Instrument:

secondary dwelling means a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and*
- (b) is on the same lot of land as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.*

Chapter 3 Diverse Housing **Part 1 Secondary dwellings** applies to development for the purposes of a secondary dwelling on land in a residential zone if development for the purposes of a dwelling house is permissible on the land under another environmental planning instrument.

Canterbury-Bankstown LEP 2023 allows dwelling houses and secondary dwellings with consent in the R3 zone, so the granny flat can be permitted under HSEPP.

HSEPP states:

52 Development may be carried out with consent

(1) Development to which this Part applies may be carried out with consent.

(2) Development consent must not be granted for development to which this Part applies unless—

(a) no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land, and

Comment: The land will contain the principal dwelling and the secondary dwelling only.

(b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument, and

Comment: Canterbury-Bankstown LEP 2023 Floor Space Ratio (FSR) Map shows this site as 0.5:1.

GFA main dwelling:	92.46m ²
GFA granny flat:	52.63m ²
GFA total:	145.09m ²

FSR: 145.09/467 = 0.31:1 – complies

(c) the total floor area of the secondary dwelling is—

(i) no more than 60m², or

(ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.

Comment: The gross floor area (GFA) of the granny flat is 52.63m² – complies

Clause 5.4(9) of CBLEP says:

(9) Secondary dwellings on land other than land in a rural zone If development for the purposes of a secondary dwelling is permitted under this Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—

(a) 60 square metres,

(b) 10% of the total floor area of the principal dwelling.

The principal dwelling has floor area 92.46m². $0.1 \times 92.46 = 9.25\text{m}^2$, so 60m² is greater. Proposed GFA of the granny flat is 52.63m² – complies.

53 Non-discretionary development standards—the Act, s 4.15

(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Part applies—

(a) for a detached secondary dwelling—a minimum site area of 450m²,

Comment: The granny flat is detached & the site is 467m² (more than 450m²) – complies.

(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.

Comment: No change to number of parking spaces on site.

Canterbury-Bankstown Local Environmental Plan 2023

The subject site is zoned R3 under the Canterbury-Bankstown Local Environmental Plan 2023 (LEP 2023).

Dwelling houses and secondary dwellings are permitted with consent under the R3 zoning. The following comments are offered in consideration of the objectives of the R3 zone with particular reference to the subject DA:

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

The granny flat will provide for the housing needs of the community by providing one additional dwelling.

- *To provide a variety of housing types within a medium density residential environment.*

The granny flat adds to variety as it is a form of “diverse housing”.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Not applicable, no other land uses proposed.

- *To allow for certain non-residential uses that are compatible with residential uses and do not adversely affect the living environment or amenity of the area.*

NA – proposed use is residential.

- *To allow for development that provides a suitable visual transition between high density residential areas and low density residential areas.*

The granny flat is at the rear of the site and is not visible from the street.

- *To ensure suitable landscaping in the medium density residential environment.*

Much of the site will be landscaped.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The site adjoins the M5 motorway which is zoned SP2. An acoustic wall runs between the M5 and the subject site.

- *To allow for increased residential density in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The new granny flat does not require its own on-site parking. This encourages the use of public transport, walking and cycling.

- *To promote a high standard of urban design and local amenity.*

The granny flat is a new brick and tile dwelling of high standard.

Summary of Planning Controls:

Local Environmental Plans	Canterbury-Bankstown Local Environmental Plan 2023 (pub. 23-6-2023)
Land Zoning	R3 - Medium Density Residential: (pub. 23-6-2023)
Height Of Building	8.5 m
Floor Space Ratio	0.5:1
Minimum Lot Size	460 m ²
Heritage	NA
Land Reservation Acquisition	NA
Foreshore Building Line	NA
Local Provisions	Area 2

4.3 Height of buildings

The granny flat is single storey and has a height of ridge 50.0 – NGL 46.4 = 3.6m to ridge – complies.

ii) Any proposed Environmental Planning Instrument

No Draft EPIs apply to this DA.

iii) Any DCPs

Canterbury-Bankstown Development Control Plan 2023

Chapter 5 Residential Accommodation 5.2 Former Canterbury LGA

SECTION 7–SECONDARY DWELLINGS

Development controls

- Required: C1 Where a development application to Council is made for a secondary dwelling, the minimum frontage required for secondary dwellings will be considered on merit taking into consideration compliance with Canterbury City Council's Secondary Dwelling (Granny Flat) Policy (adopted on 15 October 2009 by CDC Minute 295).
- Comment: Site frontage is 7.32m and is acceptable on merit. This width allows for existing on site carparking to remain and serve the main dwelling, and for a pedestrian path to the granny flat at the rear.
- Required: C2 All development applications for secondary dwellings will be assessed against schedule 1 of the ARH SEPP 2009
- Comment: ARH SEPP 2009 has been repealed. State Environmental Planning Policy (Housing) 2021 now applies. Part 1 of Chapter 3 (Diverse Housing) applies to Secondary dwellings. Division 2 "Secondary dwellings permitted with consent" is discussed above in this report.

An assessment of the DA against Schedule 1 of SEPP (Housing) 2021 is attached as Annexure "A".

The design complies with the exception of setback from boundary with a Classified road. The site adjoins the M5 motorway which is a Classified Road (State Road 6005). A 9m setback would be required for a granny flat done as Complying development. The proposed rear setback is 950mm. This is considered acceptable as:

- a DA has been lodged and Council can approve any setback they consider appropriate,
- the building will be of brick and tile construction with no habitable room openings facing the rear, which will mitigate noise,
- the road is over 30m away from the granny flat. This setback contains an acoustic wall, so no additional noise control measures are considered necessary, and
- there is no access into the site from the M5.

iiia) Planning Agreements

No planning agreement that has been entered into under section 7.4. The developer has not offered to enter into any draft planning agreement under section 7.4.

iv) Regulations

Part 4, Division 1, Clause 61 of the EP&A Regulations refers to:

- 'AS 2601 Demolition of Structures'. No demolition is required.
- Subdivision orders – N/A
- Dark Sky Planning Guideline – N/A

- DA for the purposes of a manor house or multi dwelling housing (terraces), the *Medium Density Design Guide for Development Applications* – N/A
- Residential buildings in Penrith City Centre – N/A

b) LIKELY IMPACTS

Privacy – There are no issues with privacy. There is no overlooking from the granny flat into the living areas or private open space associated with the adjoining dwellings. FFL is elevated 400mm or less above natural ground level, so a 1.8m high fence prevents overlooking from the granny flat and POS.

Overshadowing – There are no adverse overshadowing impacts upon existing neighbours or the principal dwelling. The granny flat is only single storey.

Traffic & Parking – there will be no additional traffic generation resulting from the erection of the granny flat on the site. The principal dwelling has a garage and carport. No additional parking for the granny flat is required under the HSEPP. Council cannot use this as a reason to refuse the DA.

Social Impacts – there will be no adverse social impacts resulting from the erection of the granny flat on the site. On the contrary, it is considered that there will be a positive social impact given that Diverse Housing is being provided.

Biodiversity / Threatened Species – N/A.

c) SITE SUITABILITY

The site is considered suitable for the construction of the granny flat on the site. Only a principal and a secondary dwelling will sit upon the site. No additional carparking is required and adequate open space serves the residents. The site is well located with regard to access to public transport, places of worship, local schools, shopping, employment and recreational facilities.

d) SUBMISSIONS

If the DA requires advertising Council will take into account any submissions made.

e) PUBLIC INTEREST

The application complies with the relevant provisions and objectives of HSEPP, Canterbury-Bankstown LEP 2023 and DCP 2023.

It is considered that approval of the DA will be in the public interest.

Recommendation

It is recommended that Council issue Development Consent.

ANNEXURE “A”

Assessment against SCHEDULE 1 of SEPP (Housing) 2021

Comments applicable to the subject DA for 58 Parry Ave, Narwee are in green

Part 2 Site requirements

2 Lot requirements

- (1) Development for the purposes of a secondary dwelling or an ancillary structure may only be carried out on a lot that—
- (a) at the completion of the development will have only 1 principal dwelling and 1 secondary dwelling, **complies** and
 - (b) for a lot other than a battle-axe lot—has a boundary with a primary road, measured at the building line, of at least the following—
 - (i) if the lot has an area of at least 450m² but not more than 900m²—12m,
The lot is 467m² and more than 12m wide at the required BL.
 - (ii) if the lot has an area of more than 900m² but not more than 1500m²—15m, **NA**
 - (iii) if the lot has an area of more than 1500m²—18m, and **NA**
 - (c) for a battle-axe lot—has an access laneway of at least 3m in width and measuring at least 12m by 12m, excluding the access laneway. **NA**
- (2) A lot on which a new secondary dwelling is erected must have lawful access to a public road. **Has access to Parry Ave.**
- (3) Nothing in this Schedule requires the provision of additional parking spaces for development for the purposes of a secondary dwelling. **Noted – no additional parking required or provided.**

3 Maximum site coverage of all development

- (1) The site coverage of the principal dwelling, secondary dwelling and all ancillary structures on a lot must be no more than the following—
- (a) if the lot has an area of at least 450m² but not more than 900m²—50% of the area of the lot,
Site cover is: House & carport 122.6, granny flat 60, shed 1.2. Total is 183.9m² / 467 = 39.35% - complies.
 - (b) if the lot has an area of more than 900m² but not more than 1500m²—40% of the area of the lot, **NA**
 - (c) if the lot has an area of more than 1500m²—30% of the area of the lot. **NA**
- (2) For the purposes of calculating the site coverage, the area of the following is not included— **noted**
- (a) an access ramp,
 - (b) the part of an awning, blind or canopy outside the outer wall of a building,
 - (c) a balcony, deck, patio, pergola, terrace or verandah attached to the principal or secondary dwelling and not enclosed by a wall higher than 1.4m above the floor level,
 - (d) an eave,
 - (e) a driveway,
 - (f) a farm building,
 - (g) a fence or screen,
 - (h) a pathway or paving,
 - (i) a rainwater tank attached to the principal or secondary dwelling,
 - (j) a swimming pool or spa pool.

4 Maximum floor area for principal and secondary dwellings

- (1) The floor area of a secondary dwelling, excluding an attached ancillary structure, must not be more than—
- (a) 60m², or Floor area is 60m² including external wall thickness – complies.
 - (b) if a larger floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the larger floor area. NA
- (2) The total floor area of a principal dwelling, secondary dwelling and all attached ancillary structures must not be more than the following—
- (a) if the lot has an area of at least 450m² but not more than 600m²—330m²,
House & carport 122.6, granny flat 60. Total 182.6m² – complies.
 - (b) if the lot has an area of more than 600m² but not more than 900m²—380m², NA
 - (c) if the lot has an area of more than 900m²—430m². NA
- (3) In subsection (2)— **Noted**
- attached ancillary structure** means a carport, garage, balcony, deck, patio, pergola, terrace or verandah—
- (a) attached to the principal dwelling or secondary dwelling, and
 - (b) enclosed by a wall higher than 1.4m above the floor level, other than the external wall of the dwelling.

floor area means the sum of the areas within the outer face of the external walls of each storey of a dwelling, including an attached ancillary structure, measured at a height of 1.4m above each floor level, excluding—

- (a) part of an awning, blind or canopy outside the outer wall of the dwelling,
- (b) an eave,
- (c) a lift shaft,
- (d) a stairway,
- (e) a void above a lower storey.

5 Setbacks and maximum floor area for balconies, decks, patios, terraces and verandahs

- (1) The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must be no more than 12m² if—
- (a) a part of the structure is within 6m from a side or rear boundary, and
 - (b) the structure has a point of its finished floor level at more than 2m above ground level (existing).
- (2) The balcony, deck, patio, terrace or verandah must not have a point of its finished floor level—
- (a) if it is located within 3m of a side or rear boundary—more than 2m above ground level (existing), or
 - (b) if it is located more than 3m but not more than 6m from a side or rear boundary—more than 3m above ground level (existing), or
 - (c) if it is located more than 6m from a side or rear boundary—more than 4m above ground level (existing).
- (3) A detached deck, patio or terrace, including alterations or additions to the deck, patio or terrace, must not have a floor level of more than 600mm above ground level (existing).

Note—Development identified in this section may require privacy screens under this Schedule, section 15.

NA - Granny flat has no balcony, patio, deck, terrace.

Part 3 Building heights and setbacks

6 Building height

- (1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building having a building height above ground level (existing) of more than 8.5m.
Granny flat is 3.6m high – complies.

- (2) Development for the purposes of an ancillary structure must not result in a new building or a new part of an existing building having a building height above ground level (existing) of more than—
 - (a) if an outbuilding—4.8m, or **NA**
 - (b) if a fence—1.8m. **NA**

7 Setbacks from roads, other than classified roads

- (1) Development for the purposes of a secondary dwelling or an ancillary structure on a lot must result in a new building or a new part of an existing building having a setback from a primary road, other than a classified road, of at least—
 - (a) the average distance of the setbacks of the 2 nearest dwelling houses on the same side of the primary road and located within 40m of the lot on which the principal dwelling is erected, or **The granny flat is behind the existing dwelling, so well behind the average of next door houses.**
 - (b) if 2 dwelling houses are not located within 40m of the lot on the same side of the primary road— **NA**
 - (i) for a lot with an area of at least 450m² but not more than 900m²—4.5m, or
 - (ii) for a lot with an area of more than 900m² but not more than 1,500m²—6.5m, or
 - (iii) for a lot with an area of more than 1,500m²—10m.
- (2) Development for the purposes of a secondary dwelling or an ancillary structure on a lot must result in a new building or a new part of an existing building having a setback from a boundary of the lot with a parallel road that is not a classified road of at least 3m. **NA**
- (3) Development for the purposes of a secondary dwelling or an ancillary structure on a corner lot must result in a new building or a new part of an existing building on the lot having a setback from the boundary with a secondary road that is not a classified road of at least— **NA**
 - (a) for a lot with an area of at least 450m² but not more than 600m²—2m, or
 - (b) for a lot with an area of more than 600m² but not more than 1,500m²—3m, or
 - (c) for a lot with an area of more than 1,500m²—5m.
- (4) For the purposes of this section, if a lot is a corner lot— **NA**
 - (a) a boundary that is at least 6m in length is taken to be a boundary with a primary road, and
 - (b) the other boundaries are taken to be boundaries with a secondary road.
- (5) For the purposes of this section, if a lot has contiguous boundaries with a road or roads but is not a corner lot, the lot is taken to have a boundary only with a primary road.

8 Setbacks from classified roads

Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building having a setback from a boundary with a classified road of less than—

(a) if another environmental planning instrument applying to the lot establishes a setback for a dwelling house having a boundary with a classified road—the setback specified in the environmental planning instrument, or

(b) otherwise—9m. **The site adjoins the M5 motorway which is a Classified Road (State Road 6005). The rear setback is 950mm – does not comply. This is considered acceptable as:**

- a DA has been lodged and Council can approve any setback they consider appropriate,

- the building will be of brick and tile construction with no habitable room openings facing the rear, which will mitigate noise,

- the road is over 30m away from the granny flat. This setback contains an acoustic wall, so no additional noise control measures are considered necessary, and

- there is no access into the site from the M5.

9 Setbacks from side boundaries

- (1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or a new part of an existing building or a new carport, garage, balcony, deck, patio, pergola, terrace or verandah having a setback from a side boundary of less than the following—
 - (a) for a lot with an area of at least 450m² but not more than 900m²—0.9m,

Side setbacks are at least 950mm – complies.
 - (b) for a lot with an area of more than 900m² but not more than 1,500m²—1.5m, NA
 - (c) for a lot with an area of more than 1,500m²—2.5m. NA
- (2) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building or ancillary structure having a setback from a side boundary of less than the sum of— NA
 - (a) the amount of the setback specified for the relevant sized lot in subsection (1), and
 - (b) an amount equal to 25% of the additional building height above 3.8m.
- (3) In this section—
new building or ancillary structure means—
 - (a) a new building or a new part of an existing building with a height of more than 3.8m, and
 - (b) a new carport, garage, balcony, deck, patio, pergola, terrace or verandah.

10 Setbacks from rear boundaries

- (1) Development for the purposes of a secondary dwelling or an ancillary structure must not result in a new building, a new part of an existing building or a new carport, garage, balcony, deck, patio, pergola, terrace or verandah having a setback from a rear boundary of less than the following—
 - (a) for a lot with an area of at least 450m² but not more than 900m²—
 - (i) 3m, and site adjoins a Classified road to the rear – see above.
 - (ii) if the development results in a new or existing building with a height of more than 3.8m NA—an additional amount equal to 3 times the height above 3.8m, up to a maximum setback of 8m,
 - (b) for a lot with an area of more than 900m² but not more than 1,500m²— NA
 - (i) 5m, and
 - (ii) if the development results in a new or existing building with a height of more than 3.8m—an additional amount equal to 3 times the height above 3.8m, up to a maximum setback of 12m,
 - (c) for a lot with an area of more than 1,500m²— NA
 - (i) 10m, and
 - (ii) if the development results in a new or existing building with a height of more than 3.8m—an additional amount equal to 3 times the height above 3.8m, up to a maximum setback of 15m.
- (2) A dwelling on a lot with a rear boundary with a laneway may have a building line that abuts the boundary for up to 50% of the length of the boundary. NA

11 Exceptions to setbacks

- (1) Development for the purposes of a secondary dwelling must not result in a new building or a new part of an existing building having a setback of less than 3m from a boundary with a public reserve. NA
- (2) Side and rear setbacks do not apply to the following—
 - (a) an aerial, antenna, awning or eave,
 - (b) a flue, chimney, pipe or cooling or heating appliance,
 - (c) a rainwater tank with a height of more than 1.8m,

- (d) another structure associated with the provision of a utility service if it is located at least 450mm from the relevant boundary,
 - (e) a fence, fascia, gutter, downpipe, light fitting, an electricity or gas meter, a driveway, pathway or paving if it is located within a required setback area to the relevant boundary. **Noted**
- (3) The setback from a road does not apply to—
 - (a) a driveway, fence, pathway, paving or retaining wall, or
 - (b) the articulation zone and a building element permitted within the zone. **Noted**
 - (4) The setback from a rear boundary required by this Schedule, section 10 does not apply to a lot that has only 3 boundaries, disregarding a boundary of an access lane if the lot is a battle-axe lot. **NA**

12 Calculating setbacks

- (1) For the purposes of determining the 2 nearest dwelling houses in this Schedule, section 7, a dwelling house located on a battle-axe lot must be disregarded. **NA**
- (2) For the purposes of calculating the setback of the 2 nearest dwelling houses in this Schedule, section 7—
 - (a) an ancillary structure must not be included, and
 - (b) a building element within the articulation zone must not be included. **Noted**
- (3) For the purposes of calculating the setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback. **NA**
- (4) For the purposes of calculating the setbacks for an attached secondary dwelling, the height of the secondary dwelling is the vertical distance from ground level (existing) to the highest point of the secondary dwelling. **NA**
- (5) For the purposes of calculating a side or rear setback, the maximum building height of a dwelling on a sloping lot must be used. **Noted**
- (6) A setback must be calculated at the closest point to the boundary from the building line. **Noted**

13 Building articulation

- (1) Development for the purposes of a secondary dwelling, other than development on a battle-axe lot, must result in either the principal dwelling or the secondary dwelling having a front door and a window to a habitable room in the building wall that faces a primary road. **The principal dwelling has its front door and habitable room windows facing the street.**
- (2) Development for the purposes of a secondary dwelling, other than development on a battle-axe lot, must result in either the principal dwelling or the secondary dwelling having a window to a habitable room in the building wall that faces a parallel road. **The parallel road is a Classified road (M5 motorway) 30m away with an acoustic wall between the road and subject site. The granny flat does not face this road so there is no need for building articulation to it. It is also better to not have habitable room windows facing it, to mitigate noise.**
- (3) A secondary dwelling, other than a secondary dwelling that has a setback from a primary road of less than 3m, may incorporate an articulation zone that extends from the building line to a distance of 1.5m into the required setback from the primary road. **Noted, but NA as granny flat is at rear of site.**
- (4) Development for the purposes of a secondary dwelling on a corner lot must result in either the principal dwelling or the secondary dwelling having a window in a habitable room— **NA**
 - (a) with an area of at least 1m², and
 - (b) that faces and is visible from a secondary road.

14 Building elements within the articulation zone to a primary road

- (1) The following building elements are permitted in an articulation zone in the setback from a primary road—
 - (a) an entry feature or portico,
 - (b) a balcony, deck, patio, pergola, terrace or verandah,

- (c) a window box treatment,
- (d) a bay window or similar feature,
- (e) an awning or other feature over a window,
- (f) a sun shading feature. **Noted, but NA as granny flat is at rear of site.**

- (2) A building element must not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the building. **NA**
- (3) The maximum total area of all building elements within the articulation zone, other than a building element specified in subsection (1)(e) or (f), must be no more than 25% of the area of the articulation zone. **NA**

15 Privacy

- (1) A window in a new secondary dwelling, or a new window in an alteration or addition to an existing principal dwelling for the purposes of a new secondary dwelling, must have a privacy screen for a part of the window less than 1.5m above the finished floor level if—
 - (a) the window—
 - (i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing),
FFL is a maximum of 400mm above NGL, so NA and
 - (ii) has a sill height less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
 - (b) the window—
 - (i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing),
FFL is a maximum of 400mm above NGL, so NA and
 - (ii) has a sill height less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is at least 3m, but no more than 6m, from that boundary.
- (2) Subsection (1) does not apply to a window located in a bedroom where the window has an area of no more than 2m². **NA**
- (3) A new balcony, deck, patio, terrace or verandah for the purposes of a new secondary dwelling and any alteration to an existing balcony, deck, patio, terrace or verandah of a secondary dwelling that has a floor area of more than 3m² must have a privacy screen if the balcony, deck, patio, terrace or verandah is—
 - NA, no new balcony, deck, verandah**
 - (a) within 3m of a side or rear boundary and has a floor level of more than 1m above ground level (existing), or
 - (b) between 3m and 6m of a side or rear boundary and has a floor level of more than 2m above ground level (existing). **NA**
- (4) A privacy screen required under subsection (3) must be installed— **NA**
 - (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, deck, patio, terrace or verandah, and
 - (b) at the edge of the part of the development within the areas specified in subsection (3)(a) or (b) and is parallel to or faces towards the relevant side or rear boundary.

Part 4 Landscaping

16 Landscaped area

- (1) A lot on which development for the purposes of a secondary dwelling or an ancillary structure is carried out must have a landscaped area of at least the following—

(a) for a lot with an area of at least 450m² but not more than 600m²—20%, $0.2 \times 467 = 93.4\text{m}^2$ needed.

Only counting sections 2.5m or wider, 115m² landscaping provided – complies.

(b) for a lot with an area of more than 600m² but not more than 900m²—25%,

(c) for a lot with an area of more than 900m² but not more than 1500m²—35%,

(d) for a lot with an area of more than 1500m²—45%.

(2) At least 50% of the landscaped area must be located behind the building line to the primary road boundary.

$93.4/2 = 46.7\text{m}^2$ to be behind BL. 115m² landscaping provided behind BL – complies.

(3) The minimum dimensions of the landscaped area must be more than 2.5m. **Noted**

17 Principal private open space

(1) A lot on which development for the purposes of a secondary dwelling is carried out must have more than 24m² of principal private open space. **POS is 95.8m² in area – complies.**

(2) The principal private open space may be shared by both the principal dwelling and secondary dwelling and may be in the form of a balcony or deck. **POS is shared but is not a balcony or deck.**

(3) In this section—

principal private open space means an area—

(a) directly accessible from, and adjacent to, a habitable room, other than a bedroom, and **POS is off granny flat living room**

(b) more than 4m wide, and **is 9.4m wide**

(c) not steeper than a 1:50 gradient. **No change to existing POS gradient, which is about 1:20. This is relatively flat and functional.**

Part 5 Earthworks and drainage

18 Earthworks, retaining walls and structural support

(1) Excavation for the purposes of a secondary dwelling or an ancillary structure must not be deeper than a maximum depth, measured from ground level (existing), of—

(a) if located no more than 1m from any boundary—1m, or

950mm setback, so 1m excavation permitted. Max 600mm proposed to bottom of slab – complies.

(b) if located more than 1m but not more than 1.5m from any boundary—2m, or

(c) if located more than 1.5m from any boundary—3m, or

(d) if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural)—1m.

(2) Fill must not have more than a maximum height, measured from ground level (existing), of—

(a) if the fill is for the purposes of a secondary dwelling—1m, or

FFL elevated a max. 400mm above NGL so much less than 1m fill proposed.

(b) if the fill is for the purposes of an ancillary structure—600mm.

(3) The height of fill contained wholly within the footprint of a secondary dwelling or an ancillary structure is not limited. **Noted**

(4) Fill that is higher than 150mm above ground level (existing) and is not contained wholly within the footprint of a secondary dwelling or an ancillary structure is limited to 50% of the landscaped area of the lot. **Complies**

- (5) The ground level (finished) of the fill must not be used to measure the height of any secondary dwelling or an ancillary structure under this code. **Noted**
- (6) Support for earthworks more than 600mm above or below ground level (existing) must take the form of a retaining wall or other structural support that—
 - (a) a professional engineer has certified is structurally sound, including the ability to withstand the forces of lateral soil load, and
 - (b) has been designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
 - (c) has adequate drainage lines connected to the stormwater drainage system for the site, and
 - (d) does not result in a retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is more than the height of the associated excavation or fill, and
 - (e) is separated from any other retaining wall or structural support on the site by at least 2m, measured horizontally, and
 - (f) has been installed in accordance with any manufacturer's specifications, and
 - (g) if it is an embankment or batter—must have its toe or top more than 1m from any side or rear boundary.

Note—Fill and excavation not associated with a building may be exempt development under the Codes SEPP, clauses 2.29 and 2.30.

Retaining wall proposed – appropriate conditions can be imposed upon development consent.

19 Drainage

- (1) All stormwater collecting as a result of development for the purposes of a secondary dwelling or an ancillary structure must be conveyed by a gravity fed or charged system to—
 - (a) a public drainage system, or
 - (b) an inter-allotment drainage system, or
 - (c) an on-site disposal system.
- (2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must—
 - (a) if an approval is required under the *Local Government Act 1993*, section 68—be approved under the Act, or
 - (b) otherwise—comply with requirements for the disposal of stormwater drainage contained in a development control plan applicable to the land.

Stormwater will be connected to the existing system. Refer to Stormwater plan by Capital Engineering Consultants.

20 Setbacks of secondary dwellings and ancillary structures from protected trees

- (1) Development for the purposes of a secondary dwelling, all ancillary structures and associated excavation on a lot, must have a setback from a protected tree on the lot of at least 3m.
- (2) The following ancillary structures are permitted within the setback if the development does not require a cut or fill of more than 0.15m below or above ground level (existing)—
 - (a) an access ramp,
 - (b) a driveway, pathway or paving,
 - (c) an awning, blind or canopy,
 - (d) a fence, screen or child-resistant barrier associated with a swimming pool or spa pool.
- (3) In this section—

protected tree means a tree that requires a separate permit or development consent for pruning or removal, but does not include a tree that may be removed without development consent under Chapter 3.

Note—A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on adjoining land are required to be pruned or removed.

Approval is sought as part of this DA to remove 2 small trees/shrubs – which are not significant.
