

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSH-12
DA Number	DA-594/2019
LGA	Canterbury Bankstown Council
Proposed Development	Demolition of existing structures and carpark and construction of a 3-4 storey 34-bed residential aged care facility under the <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>
Street Address	12-18 Leigh Avenue and 34 Skinner Avenue, Riverwood
Applicant/Owner	Applicant: Leigh Placed Aged Care Owners: Leigh Place Retirement Housing Pty Ltd <i>also known as Leigh Place Aged Care</i> (34 Skinner Avenue) and Canterbury Bankstown Council (12-18 Leigh Avenue)
Date of DA lodgement	12 August 2019
Number of Submissions	3
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	"Council related development" with CIV more than \$5M (the site is part owned by Council and leased to the Applicant)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (Seniors SEPP) • <i>State Environmental Planning Policy No. 55 – Contaminated Land</i> (SEPP 55) • <i>Canterbury Local Environmental Plan 2012</i> (CLEP 2012) • <i>Canterbury Development Control Plan 2012</i> (CDCP 2012) • <i>Canterbury Development Contributions Plan 2013</i> (Contributions Plan 2013)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 - Architectural Plans • Attachment 2 - Clause 4.6 Variation Request
Clause 4.6 requests	One clause 4.6 variation request to vary the following development standards: <ul style="list-style-type: none"> • Cl. 40(4)(a) Seniors SEPP - maximum building height • Cl. 40(4)(b) Seniors SEPP - maximum building height adjacent to site boundary • Cl. 4.3 CLEP 2012 – height of buildings
Summary of key submissions	<ul style="list-style-type: none"> • Impact of traffic on Leigh Avenue
Report prepared by	Planning Ingenuity (Independent Planning Consultant)
Report date	2 November 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? Yes
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Not Applicable
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? Yes
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY REPORT

This matter is reported to the Sydney South Planning Panel (Panel) as the development application is for “Council related development” (the site is owned by Council and leased to the Applicant) with a capital investment value of more than \$5 million in accordance with Schedule 7(3) of *State Environmental Planning Policy (State and Regional Development) 2011*.

The development application, DA-594/2019, seeks approval for the following under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*:

- Demolition of existing structures (carpark and concrete kerbs);
- Excavation and site preparation works;
- Construction of a part 3 and part 4 storey residential aged care facility building comprising 34 beds (GFA 2,046m²), communal areas (living, dining, activity rooms) and service facilities/rooms (serveries, utility rooms, consultation/staff rooms, staff/visitor toilets);
- Construction of a car parking level accommodating 30 car spaces, ambulance bay, 8 bicycle parking spaces, bus and trailer area, and including a separated services area (garbage room, bulky waste store, switch room, comms room, maintenance office, dirty utility hold and store rooms);
- External loading zone to Skinner Avenue;
- Communal outdoor areas including a series of courtyards at ground floor level (including a secured courtyard for residents), balconies to communal living rooms and communal terrace (119.81m²) at Level 2;
- General landscaping works (i.e. perimeter planting); and
- Associated site infrastructure works.

The Applicant, Leigh Place Aged Care is a not-for-profit organisation and an approved provider under the *Commonwealth Aged Care Act 1997*. The new building will form a new ‘house’ (“House 1”) which will be part of the existing Leigh Place Aged Care Facility and will be managed as part of that aged care facility. The new ‘house’ is anticipated to accommodate a high percentage of dementia residents.

The application has been assessed against the relevant provisions of *State Environmental Planning Policy (State and Regional Development) 2011*, *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, *State Environmental Planning Policy No. 55 – Remediation of Land*, *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012*.

In determining the application, the Sydney South Planning Panel must be satisfied of the following in accordance with the relevant legislative clauses:

- **Clause 4.6 variation**

A Clause 4.6 variation request has been submitted to vary the height development standards in Clause 40(4)(a) and Clause 40(4)(b) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, which requires a maximum building height of 8m and a two storey height control for a building adjacent to a site boundary.

The proposed height, measured to the topmost ceiling (as per the definition in the SEPP), at 11.85m, represents a variation of 3.85m (48%). The proposal is 3-4 storeys against the 2 storey height control.

- **Clause 7, SEPP No. 55**

Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP No. 55) requires the consent authority to be satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and if the land requires remediation that the land will be remediated before the land is used for that purpose.

Asbestos has been detected on the site and a Remediation Action Plan (RAP) has been provided to demonstrate that the site can be made suitable for the proposed development. Conditions of consent are recommended to ensure that the RAP is adhered to and implemented. Accordingly, the provisions of SEPP No. 55 are deemed to be satisfied.

The key issues that need to be considered by the Panel are:

- Height of the proposed building and associated Clause 4.6 variation request; and
- Consistency with Clause 33 'Neighbourhood amenity and streetscape' of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The proposal is considered to be in keeping with the existing character of the locality, which is mixed in terms of use and built form, comprising industrial development, low density residential dwellings and open space (Bennett Park). The development provides an appropriate transition between adjacent industrial properties and residential and open space areas.

The proposed development represents an appropriate built form for the site, provides a high demand residential aged care facility and satisfies the objectives of the relevant planning controls.

The development application was notified and advertised in accordance with the Canterbury Development Control Plan 2012 for a period of 21 days from 17 September 2019 to 8 October 2019. Submissions were received from three (3) members of the public. The concerns raised in submissions relate to the impact on traffic and parking in Leigh Avenue. The submissions are discussed in detail within the assessment report.

The applicant was provided with draft conditions of consent, with comments received taken into account when preparing the final set of recommended conditions provided with this assessment report.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions of consent.

SITE & LOCALITY DESCRIPTION

The site is located at 12-18 Leigh Avenue, Roselands and 34 Skinner Avenue, Riverwood, in the Canterbury Bankstown Local Government Area. The site is approximately 1.3km south-west of the Roselands Shopping Centre.

A site location plan is included at Figure 1, which shows the site in relation to the surrounding local area and surrounding road and rail network. The site is located to the immediate east of the Riverwood industrial precinct, is directly west of Bennett Park and is otherwise surrounded by residential uses.

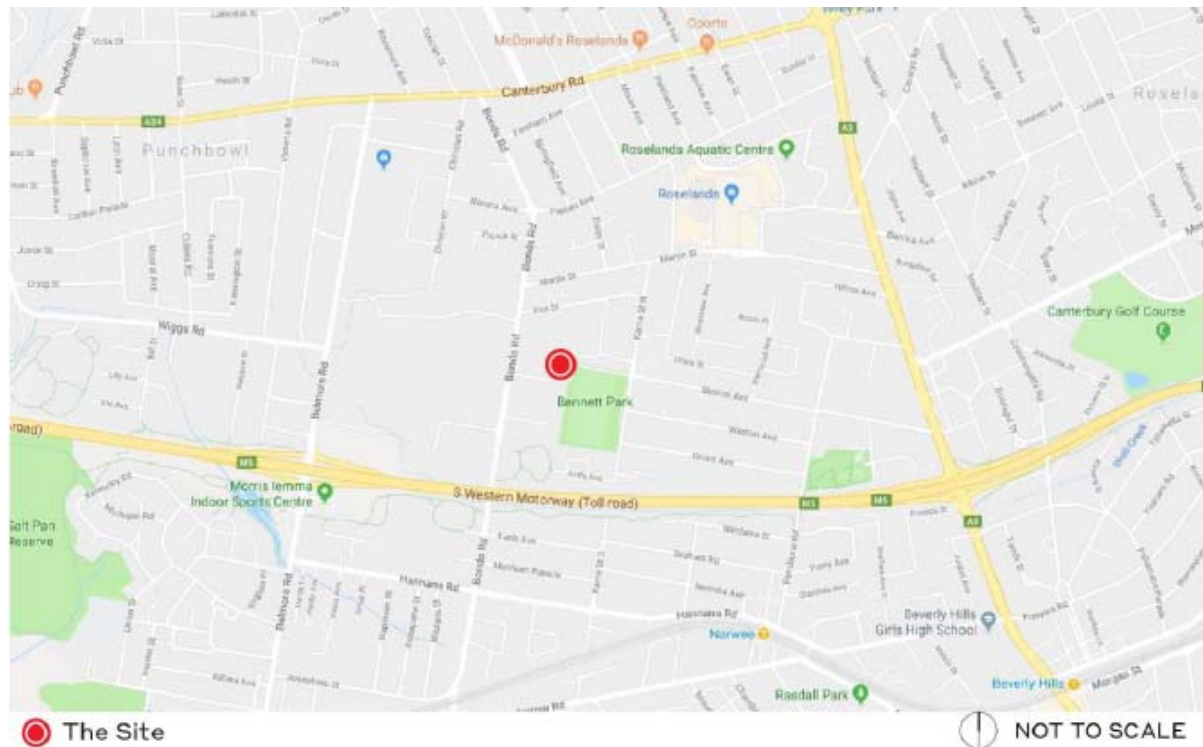


Figure 1 Site Location Plan (Source: SEE)

The site is legally described as Lot 1 in DP 775862 and Lot 17 in DP 13607. The site has primary access from Leigh Place with frontage to Skinner Avenue of 23.85m, and a site area of 8,790.9m².

The site is not identified as containing an item of environmental heritage nor does it comprise critical habitat and it is not bushfire prone land. The site has a gentle sloping topography and generally falls from the north to the south.

Part of the site (northern section, 12-18 Leigh Avenue) contains an existing 68 bed residential aged care facility (RACF), known as “Leigh Place Retirement Housing”, accommodated within six federation style houses. 12-18 Leigh Avenue is owned by Council and subject to a 99-year lease to NSW Land and Housing Corporation (LAHC). The lease was commenced on 1 January 1989 and will expire on 31 December 2087. The existing RACF was constructed by LAHC who have sub-leased the property to Leigh Place Retirement Housing (also known as Leigh Place Aged Care Pty Ltd), a not-for-profit charity that provides specialised care for aged persons. On expiry of the lease, ownership of the structures will revert to Council.

The 'pan-handle' part of the site (that fronts Skinner Avenue) is currently occupied by a carpark to the western portion and vacant land to the eastern portion (having previously contained a dwelling which has been demolished). An easement for water supply traverses the site at the rear of 34 Skinner Avenue.

The surrounding land uses are predominantly residential to the north, east and south with industrial uses to the west. Houses to the east of the existing "Leigh Place Retirement Housing" are single and two storey. Industrial buildings along Skinner Avenue are typically two storey and box-like in form. An area of public open space (Bennett Park) is directly adjacent to the site to the east and south-east.

The site and locality is illustrated in the aerial image at Figure 2.



Figure 2 Aerial image (Source: SEE)

SITE HISTORY

Development application DA-77/2016 for the demolition of existing structures and construction of a part 3 and part 4 storey, 24 bed, aged care facility on the site was approved by the Sydney South Planning Panel on 10 January 2018.

PROPOSED DEVELOPMENT

The development application, DA-594/2019, seeks approval for the following under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2009*:

- Demolition of existing structures (carpark and concrete kerbs);
- Excavation and site preparation works;
- Construction of a part 3 and part 4 storey residential aged care facility building comprising 34 beds (GFA 2,046m²), communal areas (living, dining, activity rooms)

and service facilities/rooms (serveries, utility rooms, consultation / staff rooms, staff/visitor toilets);

- Construction of a car parking level accommodating 30 car spaces, ambulance bay, 8 bicycle parking spaces, bus and trailer area, and including a separated services area (garbage room, bulky waste store, switch room, comms room, maintenance office, dirty utility hold and store rooms);
- External loading zone to Skinner Avenue;
- Communal outdoor areas including a series of courtyards at ground floor level (including a secured courtyard for residents), balconies to communal living rooms and communal terrace (119.81m²) at Level 2;
- General landscaping works (i.e. perimeter planting); and
- Associated site infrastructure works.

The Applicant, Leigh Place Aged Care is a not-for-profit organisation and an approved provider under the Commonwealth *Aged Care Act 1997*. There is a government minimum of 28.6% of residents who must be low means, supported or concessional (i.e. admitted without capacity to make their own accommodation payments). Leigh Place currently provide approximately 50% of beds across the facility to people who are low means, supported or concessional and will not be paying an accommodation payment.

The new building will form a new 'house' ("House 1") which will be part of the existing Leigh Place Aged Care Facility and will be managed as part of that aged care facility. The new 'house' is anticipated to accommodate a high percentage of dementia residents. An additional 6 staff are proposed to be employed within the proposed development, with a total staff of 32 across the facility.

The development is proposed to be located in the area of the site currently occupied by an at-grade car parking area accessed from Skinner Avenue. Vehicular access to the site will be via the undercroft car parking area. Pedestrian access to the proposed development will be through the existing Leigh Place Aged Care Facility which has its entrance on Leigh Avenue.

30 car parking spaces are provided in the undercroft area for staff and visitors. As required by the Seniors SEPP, a minimum of 16 car parking spaces are required for staff and a minimum of 11 car parking spaces for residents and visitors.

Perspectives of the proposed development are provided below.



Figure 3 Perspective of the Proposed Development from Bennett Park (Source: Architectural Plans, Drawing DA9803)



Figure 4 Perspective of the Proposed Development from Bennett Park (Source: Architectural Plans, Drawing DA9803)

APPLICATION BACKGROUND

The development application was lodged on 12 August 2019.

A preliminary assessment of the application was undertaken and a briefing meeting held with the Sydney South Planning Panel (SSPP) on 19 February 2020. Following the briefing to the SSPP, a letter was sent to the Applicant on 10 March 2020 advising of identified concerns with the proposal.

On 26 March 2020, a meeting was held with the Applicant and their representatives including the project managers, architect, planner and landscape architect, to discuss the identified issues raised in the correspondence from Council.

Amended plans and documents were lodged with Council by the Applicant on 12 May 2020.

On 30 June 2020, a further letter was issued to the Applicant identifying issues with the amended plans and documents submitted.

In response, further amended plans and documents were lodged with Council by the Applicant on 22 June 2020 and 21 August 2020. The assessment proceeded to be finalised based on these amended and documents.

In October 2020, the applicant was provided with draft conditions of consent, with comments received taken into account when preparing the final set of recommended conditions provided with this assessment report.

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

The following environmental planning instruments, development control plans, codes and policies are relevant:

- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP);
- *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55);
- *Canterbury Local Environmental Plan 2012* (CLEP 2012);
- *Canterbury Development Control Plan 2012* (CDCP 2012); and
- *Canterbury Development Contributions Plan 2013* (Contributions Plan 2013).

Environmental Planning Instruments [Section 4.15(1)(a)(i)]

State Environmental Planning Policy (State and Regional Development) 2011

In accordance with Part 4, Clause 20(1) and Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*, the application is declared as regionally significant development. The development application is for “Council related development” (the site is part owned by Council and leased to the Applicant) with a capital investment value of more than \$5 million in accordance with Schedule 7(3) of the SEPP. Accordingly, the application is to be determined by the Sydney South Planning Panel (SSPP).

A briefing on the proposal was held with the SSPP on 19 February 2020. The following are the key issues discussed at the briefing:

- Site consolidation of subject land into one allotment;
- Physical and operational integration with the existing aged care facility;
- Exceedance of height limit and impacts on adjoining properties including the amenity of the existing aged care facilities;
- Bulk, scale and character inconsistent with the residential character of the neighbourhood and existing facility;
- Carpark impacts on park amenity and screen planting considered inadequate;

- Location of shared communal open space and facilities adjacent to warehouse building considered suboptimal. Relocation to park side would improve park presentation and amenity;
- Direct and accessible, pedestrian access from street to proposed development is desirable; and
- Management of site drainage.

Amendments to the proposed development have been made subsequent to the SSPP briefing meeting to address the identified issues, and are considered within this assessment report.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The application relies on the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP). Assessment of the proposal against the relevant provisions of the SEPP is undertaken below.

Clause 40 – Development standards

Clause 40 of the Seniors SEPP includes development standards that apply to developments under the SEPP. The following table is an assessment of the proposal against these standards:

Control	Requirement	Proposal	Complies
Cl. 40(2) Site size	1,000m ²	8,790.9m ²	Yes
Cl. 40(3) Min. site frontage	20m	23.85m (Skinner Avenue)	Yes
Cl. 40(4)(a) Max. building height*	8m (measured to ceiling)	11.85m (measured to ceiling)	No <i>A clause 4.6 variation is submitted and considered below</i>
Cl. 40(4)(b) Max. building height adjacent to site boundary*	2 storeys	3/4 storeys	No <i>A clause 4.6 variation is submitted and considered below</i>
Cl. 40(4)(c) Max. building height in rear 25% of site*	1 storey	N/A	N/A – development not located in rear of site

* Development standards for height in zones where residential flat buildings are not permitted; the site is in Zone R3 where residential flat buildings are not permitted.

Clause 48 – Development standards that cannot be used to refuse consent

Clause 48 of the Seniors SEPP includes development standards that cannot be used as grounds to refuse consent. The following table is an assessment of the proposal against these standards:

Control	Requirement	Proposal	Complies
Cl. 48(a) Building height	8m (measured to ceiling)	11.85m (measured to ceiling)	No <i>A clause 4.6</i>

			<i>variation is submitted and considered below</i>
Cl. 48(b) Density and scale	1:1	0.65:1	Yes <i>Refer to comments below</i>
Cl. 48(c) Landscaped area	25m ² /bed Total 102 beds = 2,550m ² required	4,314.3m ² proposed	Yes <i>Refer to comments below</i>
Cl. 48(d) Parking for residents and visitors	1 space/10 beds 1 space/2 employees 1 ambulance space 102 beds = 10.2 spaces 32 employees = 16 spaces Total = 27 spaces + 1 ambulance space	30 car parking spaces 1 ambulance bay <i>(noting that an existing ambulance bay is located on site)</i>	Yes

Comment on compliance with density and scale and landscaped area controls

The site area used to calculate compliance with density and scale (i.e. FSR) and landscaped area controls includes the area which contains the existing residential aged care facility (RACF) at 12-18 Leigh Avenue, which is relatively low density with a large amount of landscaping.

Including that site area, the proposal meets the FSR standard of 1:1 under Clause 48(b) of the Seniors SEPP, with a proposed FSR of 0.67:1.

It is noted that the FSR is achieved due to the existing RACF having a lower FSR of 0.42:1. If the FSR of the new building was calculated against the site area of the 'pan-handle' in which it is located, it would be approximately 1.5:1 (based on 2,046m² GFA and site area of approximately 1,360m²).

The proposal also complies with the requirement to provide 25m² landscaped area per bed when calculated across the entire site area, including the existing RACF. With a total of 102 beds provided across the site, a landscaped area of 2,550m² would be required and 4,314.3m² is provided.

It is noted that if the landscaped area calculation was based on the number of beds in the new building (34), landscaped area of 850m² would be required and the proposal provides only 744.5m² for the new building. The proposal effectively relies on the "over provision" of landscaped area to the existing RACF.

The proposal complies with the density and scale (i.e. FSR) and landscaped area controls, and therefore cannot be refused on these grounds.

Given that the proposal relies on the FSR and landscaped area of the existing RACF on the site, consolidation of the lots would generally be required as part of any development consent granted. However, in this case the subject site comprises two lots with different landowners. Therefore, a condition of consent is recommended that requires a form of agreement to be reached between the two owners with corresponding legal instruments placed on the two titles, to ensure that neither owner can alter or remove the structure

without the consent of the other and require that the properties cannot be sold individually (other than to each other).

A further condition of consent is also recommended to require that the proposed building is not used in isolation of the existing aged care facility on the site.

Clause 4.6 variation relating to height and number of storeys

A Clause 4.6 variation request to vary the standards for height and number of storeys under the Seniors SEPP is provided with the application, and is considered below.

The proposed variation

The proposal does not comply with the height development standard in Clause 40(4)(a) of the Seniors SEPP which requires a maximum building height of 8m, or Clause 40(4)(b) which requires a two storey height maximum for a building adjacent to a site boundary. The proposed height, measured to the topmost ceiling (as per the definition in the SEPP), at 11.85m, represents a variation of 3.85m (48%).

The proposal also does not comply with the building height standard of 8.5m under Clause 4.3(2) of CLEP 2012. The maximum height is 12.41m which equates to a variation of 3.91m (46%). As established in *Eastern Suburbs Leagues Club v Waverley Council* [2019] NSWLEC 130, variation pursuant to Clause 4.6 is not required for LEP non-compliance and therefore the 4.6 submitted with this application need only deal with the variation to the SEPP.

In any case, the height of the proposed building in relation to the height controls under the Seniors SEPP and CLEP 2012 is shown in the below figures.



Figure 5 South elevation showing height controls



Figure 6 East elevation showing height controls



Figure 7 North elevation showing height controls

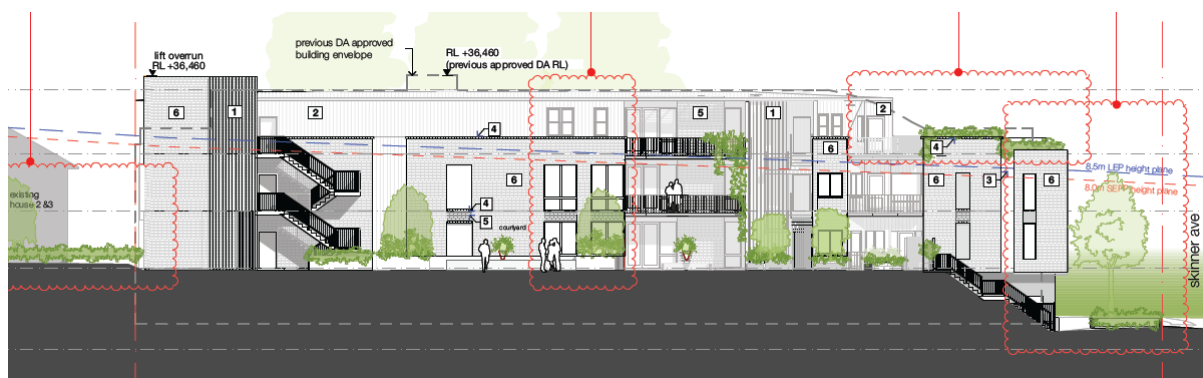


Figure 8 West elevation showing height controls

The requirements of Clause 4.6 are addressed as follows.

(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—

- **that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and**

In respect to this provision, the submitted Clause 4.6 variation request refers to the principles from *Wehbe v Pittwater Council [2007] NSW LEC 827* to establish that compliance with the development standards is unreasonable or unnecessary.

Firstly, the Clause 4.6 variation request outlines that *“The objectives of the standard are achieved notwithstanding non-compliance with the standard”*, and addresses the objectives of the height of building standard contained in Clause 4.3 of CLEP 2012 as summarised in the following table:

Objective	Statement(s) in Clause 4.6 Variation Request
<ul style="list-style-type: none"> to establish and maintain the desirable attributes and character of an area, 	<p><i>“The site is located at the eastern end of the Riverwood industrial precinct and provides a transition between the industrial properties to its west (and north) and the low density residential housing and the public open space located to its east. Council’s previous assessment report confirmed that “industrial buildings along Skinner Avenue are typically 2-3 storeys in height and are box-like in form. Houses to the east of the existing ‘Leigh Place Retirement Housing’ site are single and two storey”. The character remains consistent with this statement.</i></p> <p><i>Objectives in C.4.1 in the Canterbury Development Control Plan 2012 aim to ensure that development achieves good amenity, sunlight and privacy for occupants of new and existing buildings and ensure that development is of a high-quality design, appearance and performance.</i></p> <p><i>The proposed development will not be visible from the nearest residential zoned area, being Leigh Avenue.</i></p> <p><i>The proposed development will improve the streetscape character by providing a high-quality contemporary architectural design at the cul-de-sac of Skinner Avenue.</i></p> <p><i>The RACF is a singular rectangular building form with a primary street frontage to Skinner Avenue. The built form features strong horizontal architecture, which frame the individual bedrooms and provide articulation and legibility to the building façade. The front façade is carefully articulated with cantilevered two-storey framed box above existing ground level. The development is setback from the boundaries to provide an appropriate scale to the public domain and create a new landscaped buffer to align with Skinner Avenue. The upper level setback to Skinner Avenue, ensures that the building will present a 3 storey form to this frontage and the 4th ‘non-compliant’ level will not be discernible from that frontage (see Figure 6).</i></p> <p><i>The proposed development incorporates landscaping and private open space to capitalise on its outlook to Bennett Park and screen the industrial building that immediately abuts the site to the west. Almost all rooms will provide an outlook onto the park, improving internal amenity for residents. This is considered to be a significant</i></p>

	<p><i>improvement to the previous DA which had a number of bedrooms facing the industrial development to the west.</i></p> <p><i>The compatibility with the existing Leigh Place housing and Bennett Park is best illustrated in Figure 7, which demonstrates that despite the exceedance of the height control caused by the topography of the site, the raised level of the park and existing Leigh Place site mean that the scale and form is entirely compatible with the scale of the adjacent development and maintains the desirable scale and character of the area. This relationship has been improved further by the eastern and southern setbacks on Level 2 which reduce the prominence of the upper level when viewed from the Park.</i></p> <p><i>Given that the site immediately abuts an industrial development to the west where there is no height limit, compliance with the 8m, 8.5m and two storey height control is not considered necessary because there are no significant amenity impacts to surrounding land uses. Further, there is little to no passive surveillance offered by the existing development on the site given that it only operates as a carpark and vacant land."</i></p>
<ul style="list-style-type: none"> to minimise overshadowing and ensure there is a desired level of solar access and public open space 	<p><i>"As shown on the shadow diagrams at Appendix A, the additional shadow cast by the proposed development primarily falls onto Skinner Avenue during 21 June and is largely within the DCP compliant built form shadow. The maximum exceedance to the compliant shadow form is 244m² at 3pm during the winter solstice. However, given the size of Bennett Park being approximately 50,000m², the additional shadow cast by the proposed development is considered to be negligible. While this portion falls outside of the compliant built form shadow, it will only fall on the north-western corner of the park (much of which is inaccessible due to its topography), continuing to allow for adequate solar access to the remainder of the park and playing fields. As such, it is considered that the desired level of solar access to public open space and the surrounding public domain will continue to be achieved notwithstanding the non-compliance with the maximum building height control."</i></p>
<ul style="list-style-type: none"> to support building design that contributes positively to the streetscape and visual amenity of an area, 	<p><i>"The proposed development has been designed to directly respond to the streetscape along Skinner Avenue and Bennett Park to the immediate east.</i></p> <p><i>As well, varied materiality is adopted along the full extent of the Skinner Avenue and Bennett Park frontages to ensure diversity in the streetscape. Specifically, a mix of face brick, painted brick work, colourbond steel, timber panels, aluminium battens and landscaping planters have been incorporated that will contribute to the visual interest. These materials have been chosen to complement the existing architectural language of Leigh Place, creating cohesive materiality across the whole site. The horizontal and vertical elements will contribute significantly to</i></p>

	<p><i>breaking up the building massing, achieves a design that positively addresses the streetscape and also provides visual amenity when viewed from Bennett Park. The proposed development presents a design that provides a significant improvement to the relationship between the existing built environment and the streetscape.</i></p> <p><i>Through the inclusion of balconies fronting Skinner Avenue and Bennett Park this will create visual interest. Additionally, visual relief from the adjoining industrial buildings will be provided through a setback from the site's western boundary at upper levels, ensuring sufficient separation and transition in built form from the site to. Strict compliance with the maximum height development standard would result in less articulation and a weaker design response.</i></p> <p><i>The proposed development will largely be viewed as two storeys from Skinner Avenue as Level 2 has been setback approximately 15m from the front boundary, ensuring that the development will avoid an abrupt change in the scale of development in the streetscape. These elements will ensure that the development provides a positive contribution to the streetscape and visual amenity of the area, in response to the objectives of the building height development standard. It is therefore considered that the proposed building height is appropriate to the condition of the site and its context."</i></p>
<ul style="list-style-type: none"> to reinforce important road frontages in specific localities. 	Not applicable

Secondly, the Clause 4.6 variation request outlines that *"The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable"*, as follows:

"This is because development consent was granted to DA 77/2016 on 10 January 2018 for the demolition of existing structures and construction of a four storey RACF building comprising 24 beds on the same location of the site. This DA was approved with a maximum building height of 12.46m (RL 36.46 lift overrun) and 12.38m (main roof) equating to a departure of 55.75% and 54.75% respectively, refer to Figure 7.

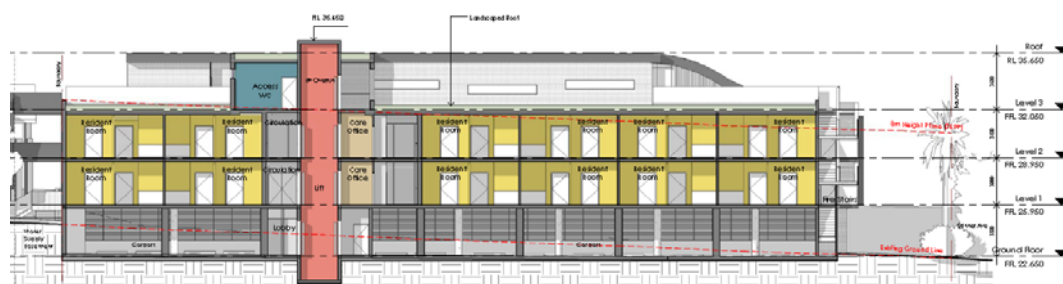


Figure 9 Approved Section

As noted in the Council Assessment report, the site is positioned in a unique location abutting industrial uses with no maximum building height limit and directly adjoining large open space. Council considered that the numerical compliance would compromise the viability of the facility on economic grounds and spatial needs of the facility as there would be a loss of much needed beds for aged care people.

Notably, the proposed development seeks consent for 11.85m to the top of the ceiling of room 2.09 (below that which was approved). Accordingly, as the proposed development results in a maximum building height below that which was approved under DA 77/2016 it is considered that the exceedance to the development standard is acceptable and considered necessary to achieve an architecturally sound development and one with significant public benefit, specifically increasing the capacity on the site for concessional accommodation for ageing members of the local community who are most in need."

Finally, the Clause 4.6 variation request makes the following conclusions in regards to Clause 4.6(3)(a):

- *"the height of development is appropriate due to the contemporary design of the building which will positively contribute to the character of the area;*
- *the design of the building through the mansard roof seeks to minimise overshadowing to the surrounding public open space in Bennett Park;*
- *the building design through articulation, windows and balconies contributes positively to the streetscape and visual amenity of an area through increased surveillance to Bennett Park;*
- *the bulk and scale of the proposed building is visually broken to achieve a graded change of height between adjoining and proposed building. The front façade is carefully articulated with cantilevered two-storey framed box above existing ground level, which animates the streetscape and adds characters. The top level is stepped back with a dark-coloured mansard roof to minimise the visual bulk;*
- *the height of the development appropriately reinforces its road frontage corner position adjacent to the cul de sac of Skinner Avenue and Bennett Park;*
- *the proposed maximum building height does not represent a significant variation to the existing building height development standard;*
- *requiring strict compliance with the development standard would not deliver any environmental planning benefit and would defeat the underlying purpose of the LEP to provide for a variety of housing typologies in the community;*
- *there are sufficient environmental planning grounds to justify the contraventions to the development standard as the proposal will expand the service offering of Leigh Place and improve the site's relationship with the existing streetscape;*
- *Council, through its own actions, has virtually abandoned (using the wording of the Case law) the HOB development standard on the site by granting consent which exceeds the standard; and*
- *there is no public benefit in maintaining the existing height of building development standard."*

Response:

The Clause 4.6 variation request seeks to address this provision primarily by considering the objectives of the development standard in Clause 4.3 of CLEP 2012 for height of building. It is noted that these objectives do not directly apply, as it is the height controls under the Seniors SEPP under which a variation is sought. However, given the lack of objectives for the height controls within the Seniors SEPP, assessment against the CLEP 2012 objectives

is considered reasonable and the general comments and conclusions within the Clause 4.6 variation request have been considered. We do note however that it is not accepted that the development standard has been abandoned by Council on the basis of the approved variation for the previous development application on the site. The height variation for that application was approved based on the circumstances of the application, and pursuant to a request made by the applicant under Clause 4.6. Support of that request does not amount to abandonment of the control.

It is however considered that it has been sufficiently demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In particular, given the context of the proposed development adjacent to an industrial area, Bennetts Park and the existing RACF on the site, and also the raised level of the adjacent park which results in the proposal presenting as a 2-3 storey built form of similar height to the remainder of the existing RACF, the proposal is appropriate to the existing character of the area.

There is an absence of significant amenity impacts, given that there are no residential properties in the vicinity apart from the existing RACF on the site, and measures have been implemented to mitigate any privacy impacts to the existing accommodation on the site.

- ***that there are sufficient environmental planning grounds to justify contravening the development standard.***

An extract from the applicant's submission with respect to this point is provided below:

"The specific environmental planning grounds that justify contravening the development standard in this instance relate to the existing levels within the site (see Figure 10) in relation to the surrounding properties. Despite the building being above the technical height limit, the raised level of the park and existing Leigh Place site mean that the scale of the new building presents as a 2-3 storey building, which is consistent with the scale generated by the height limit, and entirely compatible with the adjacent development (see Figure 7)."

Extracts of Figures 10 and 7 referred to are provided below.



Figure 10 The change in levels between the site and Bennett Park



Figure 7 View from Bennett Park illustrating the complementary scale to the surrounding character

Response:

The raised level of the adjacent park which results in the proposal presenting as a 2-3 storey built form of similar height to the remainder of the existing RACF, ensures that the proposal is appropriate to the existing character of the area.

The other conclusions of the submitted Clause 4.6 variation request also identify that the proposed development is an appropriate response to the existing character of the area which comprises industrial development, Bennett Park and the existing RACF buildings.

On this basis, it is considered that there are sufficient environmental planning grounds to justify the contravention of the development standard, relating to the building height.

(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

With regard to the above, it is considered that the applicant's written submission under Clause 4.6 of CLEP 2012 adequately demonstrates that compliance with the development standards are unreasonable or unnecessary in the circumstances of the case. The submission has provided sufficient environmental planning grounds to justify the contravention to the height controls.

Accordingly, the written submission has adequately addressed the matters required by sub-clause (3).

(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

In terms of consistency with the objectives of the development standards, this has been addressed in response to Clause 4.6(3)(a) as outlined above.

In terms of consistency with the zone objectives, the submitted Clause 4.6 variation request states that:

“The proposal is consistent with the R3 Medium Density zone for the following reasons:

- “The proposed development will respond to the needs of the ageing population within the South Sydney and the Canterbury Bankstown LGA by providing an additional 34 aged care beds. This will directly assist with the provision of meeting the housing needs of the community in a medium density environment.*
- The proposed development will expand the service offering of an existing aged care facility, ensuring a variety of housing types is provided within the local area.*
- Aged care facilities are a land use that meets the day to day needs of the residents in the area as they age, or have family members who age and require care. By providing it in the R3 zone, the development will directly service the needs of people who live in the local area, rather than having to move out of the local area when this type of housing is required.”*

Response:

The objectives of the R3 Medium Density zone in which the proposal is located are:

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents*

The proposed development is considered to be in the public interest, as it meets the objectives of the R3 zone by providing for residential housing and facilities and services to meet the day to day needs of residents, particularly seniors.

(b) the concurrence of the Planning Secretary has been obtained.

Under Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Planning Secretary has given written notice, attached to Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary’s concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. The notice states that all consent authorities may assume the Secretary’s concurrence under Clause 4.6 of a local environmental plan that adopts the *Standard Instrument (Local Environmental Plans) Order 2006* or any other provision of an environmental planning instrument to the same effect.

The Secretary’s concurrence may not be assumed if the development contravenes a numerical standard by greater than 10% or the variation is to a non-numerical standard and the function of determining the application is exercised by a delegate of Council. This does not apply to the subject application which is to be determined by the South Sydney Planning Panel and not a delegate of Council.

Therefore, the concurrence of the Secretary can be assumed for the proposed development.

Conclusion

Based on the foregoing, the requested variation to the standard is considered to meet the requirements of Clause 4.6 and is supported for the following reasons:

- an appropriate degree of flexibility has been applied and better outcomes are achieved by the variation of the height standards;
- the circumstances of the proposal warrant variation of the standard;
- there are sufficient environmental planning grounds to warrant variation;
- the proposal is in the public interest, as the development is consistent with relevant objectives of the standard and the zone; and
- there is no public benefit in maintaining the standard, in the circumstances of the subject application.

Other Provisions

Restrictions on occupation of seniors housing (Clause 18)

The new facility will accommodate seniors in accordance with this provision. This clause requires that a condition of consent is imposed to require that only persons referred to in Clause 18(1) may occupy the accommodation. If the application were to be approved, a condition of consent is recommended in accordance with this requirement.

Access to facilities and services (Clause 26)

Clause 26 of the Seniors SEPP requires the consent authority to be satisfied that residents of the proposed development have access to:

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) community services and recreation facilities, and*
- (c) the practice of a general medical practitioner.*

Also required is that there is a public transport service available to the residents who will occupy the proposed development:

- (i) that is located at a distance of not more than 400m from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
- (ii) that will take those residents to a place that is located at a distance of not more than 400m from the facilities and services referred to in subclause (1), and*
- (iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),*

Bus stops are located on Karne Street North within 400m of the proposed development (approximately 300m) that provide access to Westfield Hurstville. This meets the requirements under Clause 26 of the Seniors SEPP for access to services and facilities. The gradient of travel to the bus stop also meets the SEPP requirement.

Leigh Place also provides a private bus service that transports residents to services, facilities and social outings.

Water and sewer (Clause 28)

A utilities statement has been submitted with the application which advises that sewer and potable water connections exist and are anticipated to have adequate capacity to serve the proposed development. If the application were to be approved, a condition of consent can ensure that a suitable arrangement is achieved.

Site analysis (Clause 30)

An appropriate site analysis plan has been prepared and is supported by an Architectural Design Statement and Statement of Environmental Effects which details how the proposal responds to this analysis of the sites constraints and opportunities and the design principles set out in Division 2 of the Seniors SEPP.

Design of residential development (Clause 32)

Clause 32 requires the consent authority to be satisfied that adequate regard has been given to the principles set out in Division 2, as considered below.

Design principles (Division 2 - Clauses 33 to 39)

The design principles set out in Division 2 include:

- Neighbourhood amenity and streetscape (Cl. 33)
- Visual and acoustic privacy (Cl. 34)
- Solar access and design for climate (Cl. 35)
- Stormwater (Cl. 36)
- Crime prevention (Cl. 37)
- Accessibility (Cl. 38)
- Waste management (Cl. 39)

These design principles are considered below.

Design Principle / Clause	Assessment
Neighbourhood amenity and streetscape (Clause 33)	<p>Clause 33 'Neighbourhood amenity and streetscape' states that the development should:</p> <p><i>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</i></p> <p>The proposal is in keeping with the existing character of the locality. The existing character of the area is mixed in terms of use and built form, comprising industrial development, low density residential dwellings and open space. The industrial zoned land is characterised by box-like built form with a substantial front setback and nil or minimal side setbacks. The character of surrounding residential development is characterised by the built form of the existing RACF at 12-18 Leigh Avenue being one- to two-storey within relatively large "houses" and one-storey dwellings along Leigh Avenue, with setbacks and landscaping.</p>

	<p>The development provides an appropriate transition between industrial properties, low density residential housing and the Park.</p> <p><i>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</i></p> <p>The proposal is not situated in a heritage conservation area.</p> <p><i>(c) maintain reasonable neighbourhood amenity and appropriate residential character by—</i></p> <ul style="list-style-type: none"> <i>(i) providing building setbacks to reduce bulk and overshadowing, and</i> <i>(ii) using building form and siting that relates to the site's land form, and</i> <i>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</i> <i>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</i> <p>Given the location adjacent to Bennett Park and industrial development, the proposal includes appropriate side setbacks, and landscaping to the eastern elevation fronting the Park is provided. The front setback is consistent with adjoining industrial development on Skinner Avenue, and the setback of the upper level (Level 2) ensures that the building height at the street frontage is compatible in scale with the adjoining development. Accordingly, the proposal is unlikely to affect the amenity of adjoining development.</p> <p><i>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</i></p> <p>The front setback is consistent with adjoining industrial development on Skinner Avenue.</p> <p><i>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</i></p> <p>The proposed landscaping will be sympathetic with existing landscaping at the site and in the surrounding area. Perimeter planting to the eastern boundary will provide screening to the undercroft car park.</p> <p><i>(f) retain, wherever reasonable, major existing trees, and</i></p> <p>The proposed development does not include the removal of trees (removed under the previous consent).</p> <p><i>(g) be designed so that no building is constructed in a riparian zone."</i></p> <p>The proposal is not situated in a riparian zone.</p>
Visual and acoustic privacy (Clause 34)	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p>

	<p><i>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</i></p> <p>Privacy measures are incorporated to protect the privacy of adjoining occupants of the existing RACF.</p> <p><i>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</i></p> <p>The proposed resident rooms are located away from driveways, parking areas and paths.</p>
Solar access and design for climate (Clause 35)	<p>The proposed development should:</p> <p><i>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space</i></p> <p>The proposal will not impact on the access to sunlight for any neighbouring properties, and will provide for adequate sunlight to the subject development.</p> <p><i>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</i></p> <p>Windows are not oriented in a northerly direction, but the resident rooms are predominantly east facing.</p>
Stormwater (Clause 36)	<p>The proposed development should:</p> <p><i>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas,</i></p> <p>The proposal includes an on-site detention tank (OSD) tank. Council's Development Engineer has reviewed the proposal and raises no issue.</p> <p><i>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</i></p> <p>The proposal includes an on-site detention tank (OSD) tank.</p>
Crime prevention (Clause 37)	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p><i>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street,</i></p> <p>The proposal is for a secure managed facility, with access controlled by electronic key pad / security intercom system.</p> <p><i>(b) where shared entries are required, providing shared entries that</i></p>

	<p><i>serve a small number of dwellings and that are able to be locked,</i></p> <p>All shared entrances are capable of being secured by lock.</p> <p><i>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</i></p> <p>The proposal is for a secure managed facility, rather than individual dwellings.</p>
Accessibility (Clause 38)	<p>The proposed development should:</p> <p><i>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities</i></p> <p>The proposal will utilise existing pedestrian pathways through the site which provide for obvious and safe pedestrian links to the street. Pedestrian access to Bennett Park is provided between existing Houses 2 and 3, adjacent to the Leigh Place reception. This enables staff to monitor who is entering and exiting the site.</p> <p><i>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</i></p> <p>The proposed development allows for dedicated on-site parking and provides attractive and safe environments for pedestrians and motorists. Vehicular access is separated from pedestrian access which is through the existing facility via Leigh Avenue.</p>
Waste management (Clause 39)	<p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p> <p>The proposed development includes a waste storage area with dedicated bins for general waste and recycling.</p>

Fire Sprinklers (Clause 35)

Consent must not be granted unless the proposed development includes a fire sprinkler system. A condition of consent is recommended to ensure that this matter is dealt with in satisfaction of the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45(1)(b)(iii) of *State Environmental Planning Policy (Infrastructure) 2007* requires a development application to be referred to the electricity supply authority where the development is to be carried out within 5m of an exposed overhead electricity power line. The application was referred to Ausgrid, who responded to state they have no objection to the development application and provided general commentary about compliance with their Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.. A condition of consent is included that references these requirements. The proposal is not Integrated Development and therefore no General Terms of Approval required.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7(1) of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) specifies 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.*

A Stage 2 Environmental Site Assessment, prepared by Environmental Investigation Services (Ref: E29038KDrpt2, dated 27 June 2016) was submitted with the application. Asbestos was detected on the site within a fill soil sample. The assessment concluded that the site could be made suitable for the proposed development provided that an asbestos management plan is prepared for the removal of the fill material from the site, a Hazardous Materials Assessment for the existing buildings is undertaken prior to the commencement of demolition work and that the site is inspected by an environmental scientist during earthworks.

Given the age of the assessment (more than 3 years old) and that the previous dwelling at No. 34 Skinner Road has subsequently been demolished, a revised detailed site investigation was requested by Council. After follow up from the Applicant, it was agreed that a Remediation Action Plan (RAP) was to be provided to demonstrate that the site can be made suitable for the proposed development.

A RAP was subsequently submitted by the Applicant, which concludes that the site can be made suitable for the proposed development provided that the RAP is implemented. Conditions of consent are recommended to ensure that the RAP is adhered to and implemented.

In conclusion, it is considered that the subject site can be made suitable for the proposed use and that the provisions of SEPP No. 55 have therefore been satisfied.

Canterbury Local Environmental Plan 2012

The site is zoned R3 Medium Density Residential under the *Canterbury Local Environmental Plan 2012* (CLEP 2012).

The controls applicable to this application are discussed below.

Clause 2.3 Zone Objectives and Land Use Table

Clause 2.3(2) of CLEP 2012 outline that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the R3 Medium Density Residential Zone are as follows:

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

- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

The proposed development meets the objectives of the R3 zone as it provides for the housing needs of the community, particularly seniors.

Provision/ Standard	Requirement	Proposal	Complies
Part 2 Permitted or Prohibited Development			
2.1-2.3 Zoning	R3 Medium Density Residential	Residential aged care facility, as a type of 'seniors housing'	Yes - 'Seniors housing' permitted with consent
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Demolition of existing structures	Yes – development consent is sought
Part 4 Principal Development Standards			
4.3 Height of Buildings	8.5m	Maximum building height of 12.41m	No - Seniors SEPP provision prevails. A Clause 4.6 variation has been submitted for the departure to the development standards for height under that SEPP and is found to be satisfactory. The Clause 4.6 request also addresses the LEP height limit however that is not necessary pursuant to <i>Eastern Suburbs Leagues Club Ltd v Waverley Council</i> [2019] NSWLEC 130.
4.4 Floor Space Ratio	0.5:1	0.65:1	No – however Seniors SEPP provision prevails.
4.6 Exception to development standards	A Clause 4.6 variation request has been submitted to vary the development standards relating to building height under the Seniors SEPP. Refer to detailed discussion in the Seniors SEPP section of this report.		
Part 5 Miscellaneous Provisions			
5.10 Heritage Conservation	The subject site is not identified as a heritage item or within the vicinity of a heritage item or heritage conversation area.		

Part 6 Local Provisions			
6.1 Acid Sulfate Soils	Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	Not affected by acid sulfate soils	Not applicable
6.2 Earthworks	Before granting consent to development including earthworks, the specified matters must be considered	<p>The proposal is accompanied by a Geotechnical Investigation prepared by JKGeotechnics.</p> <p>Council's Development Engineer has reviewed the proposal and raises no objection to the earthworks.</p>	Yes – conditions of consent are recommended to require recommendations of the Geotechnical Report to be implemented and manage potential impacts of the earthworks.
6.3 Flood Planning	<p>This clause applies to land at or below the flood planning level.</p> <p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied of the required matters.</p>	The subject site has not been identified within a flood prone land.	Not applicable

6.4 Stormwater Management	Consent must not be granted unless: (a) Water permeable surfaces are maximized having regard to soil characteristics affecting on-site stormwater infiltration. (b) Includes on-site detention if practical as an alternative means of water supply. (c) Avoids significant impacts of run-off on adjoining land or the environment or minimises and mitigates impacts.	On-site detention proposed. The application was referred to Council's Development Engineer who has not raised any objections with the proposed stormwater plans	Yes
6.6 Essential Services	Essential services must be available or adequate arrangements have been made to make them available, including: - the supply of water; - the supply of electricity; - the disposal and management of sewage; - stormwater drainage or on-site conservation; - suitable vehicular access.	A utilities statement has been submitted with the application which advises that sewer and potable water connections exist and are anticipated to have adequate capacity to serve the proposed development.	Yes

Proposed Environmental Planning Instruments [section 4.15(1)(a)(ii)]

Planning Proposal (PP_2019_CBANK_005) for the Draft Canterbury Bankstown Consolidated Local Environmental Plan (Draft CBLEP) was on public exhibition from 9 March 2020 until 22 May 2020.

The Planning Proposal seeks to produce a single set of planning rules and combine and align the Bankstown LEP 2015 and Canterbury LEP 2012 into a consolidated Local Environmental Plan, as follows:

- Produce a single land use table consistent with the Local Strategic Planning Statement, Standard Instrument (Local Environmental Plans) Order 2006 and other State requirements.
- Resolve differences between Bankstown LEP 2015 and Canterbury LEP 2012.
- Comply with the Gateway Determination issued by the Department of Planning, Industry & Environment (dated 20 February 2020), namely the conditions to preclude any changes to residential land uses and development standards, and to preclude the rezoning of any land other than those included in current land use strategies.

Planning Proposal (PP_2019_CBANK_005) which has been on public exhibition and is a draft instrument is a matter for consideration under Section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act, 1979*.

Council is seeking the addition of a Design Quality Clause within the Draft CBLEP. This draft clause formed part of the Planning Proposal (PP_2019_CBANK_005), and would apply to seniors housing.

Draft Design Quality Clause

6.14 Design Quality

- (1) The objective of this clause is to ensure that development achieves good urban design and supports quality places for people.*
- (2) This clause applies to the following development: residential flat buildings, multi dwelling housing, boarding houses, seniors living, mixed use development, shop top housing, commercial premises, industrial buildings, warehouse or distribution centres, centre-based child care facilities, schools, places of worship, registered clubs, community facilities, in relation to:*
 - the erection of a new building, or*
 - in the Council's opinion, significant alterations or additions that are visible from the public domain.*
- (3) Before granting consent for development, the consent authority must have regard to the following matters, to the extent it considers them relevant to the proposed development:*
 - (a) whether the development positively contributes to the urban context and site conditions in terms of natural features, built form, streetscape, street wall height, building separation, setbacks, amenity, building bulk and modulation,*
 - (b) whether the development positively contributes to the quality and amenity of the public domain in terms of landscaping, passive surveillance, visual interest and the interface of public and private domain,*
 - (c) whether the development uses external materials that are good quality, durable and low-maintenance,*
 - (d) whether the development achieves a high standard of architectural detailing and colours that are appropriate to the building type and location,*
 - (e) whether the development achieves the principles of ecologically sustainable development,*
 - (f) whether the development achieves internal layouts that are functional, efficient and fit for purpose,*
 - (g) whether the development integrates a high quality landscape design with the built form,*
 - (h) how the development satisfactorily addresses the following matters:*
 - impacts on heritage items, heritage conservation areas or historically significant buildings on the site or in the vicinity of the site,*
 - environmental impacts such as solar access, visual and acoustic privacy, wind, reflectivity, urban heat and water sensitive urban design,*
 - pedestrian, cycle, vehicular and service access and circulation requirements,*
 - the integration of waste management infrastructure in the site layout and building design.*

The proposal would not be inconsistent with the envisaged design quality requirements and provisions of Draft CBLEP.

Development control plans [section 4.15(1)(a)(iii)]

Canterbury Development Control Plan 2012

Part C of the *Canterbury Development Control Plan 2012* deals with residential development but does not provide controls for residential aged care facilities.

The relevant 'General Controls' in Part B of the DCP are considered below.

Transport and Parking

The Seniors SEPP provides the required parking rates for the development. Thirty car parking spaces, including one accessible parking space are provided.

In terms of design and technical requirements, the proposal has been reviewed by Council's Traffic and Development Engineers who do not object to the proposal and have recommended conditions of consent.

The visual impact of the car parking level, which is partially above ground, is mitigated by the difference in level from the development to the adjacent Bennett Park whereby the car park sits well below the Park and will not generally be visible, and the inclusion of perimeter planting to the eastern side of the carpark comprising 82 x 200mm *Murraya Paniculata* which have a mature height and width of 3m x 2m and a dense evergreen foliage, providing an effective landscape screen.

The external loading area to the front of the car park is considered as an appropriate response to allow for SRVs to enter and exit in a forward direction from the site. The arrangement has been reviewed by Council's traffic unit and found to be acceptable.

Landscaping

The Seniors SEPP dictates the required landscaped area for the proposal, and the development complies with the requirements across the site.

Landscape Plans have been submitted with the application, which demonstrate that the proposal incorporates suitable communal landscaped areas including a series of courtyards at ground floor level (including a secured courtyard for residents) and a communal terrace of 119.81m² at Level 2, as well as general landscaping works (i.e. perimeter planting to screen the car parking).

Accessible and Adaptable Design

The proposed development is accessible by pedestrian and wheelchair access via the existing Leigh Place RACF via a wheelchair accessible pathway. Access from the car parking level is provided by lift. The proposal includes two (2) accessible rooms.

Stormwater and Flood Management

The proposal includes an on-site detention tank (OSD) tank. Council's Development Engineer has reviewed the proposal and raises no issue with the proposed stormwater management.

Crime Prevention and Safety

The proposal is for a secure managed facility, with access controlled by electronic key pad / security intercom system. The proposed RACF offers good passive surveillance opportunities during the day and night. The proposal is considered to address safety and security satisfactorily.

Waste Management

The proposal satisfies waste requirements of the CDCP 2012. The proposal is considered to address waste management satisfactorily.

Canterbury Development Contributions Plan 2013 (Contributions Plan 2013)

As the proposed development is for seniors housing by a social housing provider, the proposed development is not subject to a development contribution under *Canterbury Development Contributions Plan 2013*, in accordance with the exemption by Ministerial Direction.

The applicability of an exemption was specifically considered as part of the previous DA on the site (DA-77/2016) for which Council sought the advice of the Department of Planning and Environment with respect to Leigh Place's qualification for an exemption. The Department confirmed that Leigh Place is a social housing provider for the purposes of the SEPP, due to their status as a not for profit organisation and that they are a direct provider of rental housing to tenants. The Department, Council and Joint Regional Planning Panel were satisfied that Leigh Place qualified for an exemption.

The applicant has provided a copy of their certificate as a registered charity, and advises in the submitted Plan of Management that the RACF will be operated by Leigh Place Aged Care, an approved provider under the *Commonwealth Aged Care Act 1997*. A condition of consent is recommended to require that the RACF is "*operated and managed by an approved provider under the Commonwealth Aged Care Act 1997*". Accordingly, it is considered that the applicant remains as a social housing provider for the purposes of the SEPP, and meets the requirements for an exemption.

Planning agreements [section 4.15(1)(a)(iia)]

There are no planning agreements applicable to the proposed development.

The regulations [section 4.15(1)(a)(iv)]

The proposed development is not inconsistent with the provisions of the *Environmental Planning and Assessment Regulation, 2000*.

The likely impacts of the development [section 4.15(1)(b)]

As discussed throughout this report, the proposed development is considered to be acceptable with regard to its likely environmental, social and economic impacts on the locality.

Suitability of the site [section 4.15(1)(c)]

The proposed development is permitted with consent on the subject site, and represents a built form that is compatible with the existing character of the area.

The site is suitable in that it is an accessible site in proximity to Bennett Park, offering good visual amenity for residents and surveillance for users of the park. The site is suitable for delivering a significant public benefit.

The site is suitable for the proposal in architectural terms because the end of the street is punctuated with a higher built form without compromising the amenity of adjoining properties.

Submissions [section 4.15(1)(d)]

The development application was notified and advertised in accordance with the Canterbury Development Control Plan 2012 for a period of 21 days from 17 September 2019 to 8 October 2019. Submissions were received from three (3) members of the public.

Objection: Proposal will further impact existing traffic and parking issues on Leigh Place

Comment: The proposed development will provide for 30 car parking spaces in the undercroft area of the new building, accessed from Skinner Avenue. A minimum of 16 car parking spaces must be provided for staff, and 11 car parking spaces for residents and visitors. Deliveries will be via this area with a dedicated loading area provided.

A Plan of Management for the aged care facility has been submitted and includes the following in relation to car parking:

- *Staff parking will be located within the new basement carpark. Staff will be discouraged from using visitor car parking and from parking in the surrounding residential streets. Staff will be notified as part of their induction that they are to only park in the designated staff parking spaces and to avoid parking in the residential streets where possible.*
- *Staff are advised NOT to park off street and to respect the neighbouring property owners by entering and leaving the site without undue noise or disturbance.*
- *Leigh Place Management will carry out frequent checks of the basement carpark and surrounding streets to ensure that staff are parking in designated parking spaces.*
- *Visiting families and friends will be encouraged to park their cars in the basement parking level which is accessed from Skinner Avenue.*
- *Due to the necessity for residents to be accompanied and assisted in being dropped off or picked up, relatives or friends picking up or dropping off residents will access Leigh Place from Leigh Avenue or Skinner Avenue depending on the location of the resident's accommodation area. They will be encouraged to park their vehicle in the basement or designated parking spaces accessed from Leigh Avenue and go to the accommodation area to collect them and escort them back to the car and likewise when dropping a resident off after an outing.*
- *Delivery vehicles will use the Skinner Avenue vehicle access point in front of the new aged care facility.*
- *The Leigh Place website will clearly indicate that the Skinner Avenue Basement car park is the primary vehicular access point to the facility with maps indicating how visitors gain access to administration.*
- *Wayfinding signage will be provided from the Skinner Avenue carpark to the reception area where all contractors and visitors will need to sign in.*

The allocation of parking and the above measures are considered appropriate to mitigate any potential traffic and parking issues. A condition of consent is recommended to require compliance with the Plan of Management.

The application was accompanied by a Traffic and Parking Assessment Report. Council's traffic engineers have reviewed the proposal and have not raised any objections on traffic grounds.

Objection: *Signage for Leigh Place erected in two locations will exacerbate traffic issues on Leigh Avenue.*

Comment: The signage referred to does not relate to the subject development application.

External Referral:

External Referral	Comments Received
Ausgrid	The application was referred to Ausgrid who advised they have no objection to the development application. Ausgrid provided general commentary about compliance with their Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets. A condition of consent is included that references these requirements.

Internal Referrals:

Internal Referral	Comments Received
Traffic	No objections raised to final scheme. Conditions of consent provided. Previous issues raised were addressed: <ul style="list-style-type: none"> • Pedestrian sight triangles for access driveways – <i>further information provided, conditions of consent recommended</i> • Footpath to Skinner Avenue to be replaced if necessary at Applicant's cost – <i>condition of consent recommended</i> • Vehicles accessing the loading dock/waste area not able to enter site in forward direction – <i>design amended, external loading area provided, waste collection conditions</i> • Driveway must be more than 1m from western boundary – <i>design amended</i>
Development Engineer	No objections raised to final scheme. Conditions of consent provided. Previous concerns raised regarding ambulance parking not complying with standards were addressed – applicant indicated there is an ambulance bay at the main facility.
Environmental Health	Remediation Action Plan required. Conditions provided.
Waste Services	No objections raised to final scheme. Conditions of consent provided. Previous issues raised included alternative arrangements for waste collection due to not supporting garbage trucks reversing into the site, details and location of bin storage area and provision of a bulky waste room. These were addressed by amendments to the proposal.

Building Surveyor	No objections raised. Conditions of consent provided.
Fire Safety	No objections raised. Conditions of consent provided.
Tree Officer	No objections raised. Conditions of consent provided. However, given that trees have been removed under the previous approval (DA-77/2016) the conditions have not been proposed.

The public interest [section 4.15(1)(e)]

The proposed development is in the public interest as it allows for the provision of an aged care facility which will particularly cater for patients with dementia.

The compliance of the facility with the objectives of the applicable controls is a good measure of its public interest, as the controls have been adopted to protect the desired future character of the locality and the amenity of adjoining residents.

The proposal is considered to be a suitable development for the site and is in the public interest.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*, *State Environmental Planning Policy (Infrastructure) 2007*, *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, *Canterbury Local Environmental Plan 2012* and *Canterbury Development Control Plan 2012*.

The proposed development represents an appropriate built form for the site, provides a high demand residential aged care facility and satisfies the objectives of the relevant planning controls.

RECOMMENDATION

That Development Application DA-594/2019 be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act, 1979* subject to the following conditions.

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-594/2019, submitted by Leigh Place Aged Care, accompanied by the drawings as listed in the table below, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

Drawing No.	Drawing Title	Revision	Dated	Prepared by
	Cover Page	E	18/8/20	Integrated Design Group
DA0001	Site Analysis 01	D	8/5/20	Integrated Design Group
DA0002	Site Analysis 02	D	8/5/20	Integrated Design Group
DA0003	Existing Leigh Place Building Character Analysis	D	8/5/20	Integrated Design Group
DA0004	Local Context	D	8/5/20	Integrated Design Group
DA0100	Site Plan	G	18/8/20	Integrated Design Group
DA0200	Demolition Plan	D	8/5/20	Integrated Design Group
DA1001	Basement Plan	J	18/8/20	Integrated Design Group
DA1100	Ground Floor Plan	H	18/8/20	Integrated Design Group
DA1101	Level 1 Plan	G	8/5/20	Integrated Design Group
DA1102	Level 2 Plan	G	8/5/20	Integrated Design Group
DA1103	Roof Plan	F	8/5/20	Integrated Design Group
DA2000	Elevation – North	F	8/5/20	Integrated Design Group
DA2001	Elevation – East	F	8/5/20	Integrated Design Group
DA2002	Elevation – West	G	18/8/20	Integrated Design Group
DA2003	Elevation – South	G	18/8/20	Integrated Design Group
DA3000	Section A	G	8/5/20	Integrated Design Group
DA3001	Section B	G	8/5/20	Integrated Design Group
DA9000	Landscape Area	E	18/8/20	Integrated Design Group
DA9100	Shadow Diagrams at	E	8/5/20	Integrated Design

	Winter Solstice (1)			Group
DA9101	Shadow Diagrams at Winter Solstice (2)	E	8/5/20	Integrated Design Group
DA9102	View from the Sun at Winter Solstice	E	8/5/20	Integrated Design Group
DA9200	Building Envelope Diagram	E	18/8/20	Integrated Design Group
DA9300	GFA Diagrams	E	18/8/20	Integrated Design Group
DA9600	External Materials & Finishes	E	8/5/20	Integrated Design Group
DA9800	Vehicle Crossing Details	F	18/8/20	Integrated Design Group
DA9801	View Impacts from Skinner Ave	E	18/8/20	Integrated Design Group
DA9802	Privacy Plan	D	8/5/20	Integrated Design Group
DA9803	View Impacts from Bennett Park	B	8/5/20	Integrated Design Group
L-000	Cover Sheet	F	17/8/20	Site Image
L-C100	Composite Render	F	17/8/20	Site Image
L-100	Composite Landscape Plan	F	17/8/20	Site Image
L-101	Landscape Plan - Basement	F	17/8/20	Site Image
L-102	Landscape Plan – Ground Floor	F	17/8/20	Site Image
L-102.1	Landscape Plan – Ground Floor Existing Building	F	17/8/20	Site Image
L-103	Landscape Plan – Second Floor	F	17/8/20	Site Image
L-301	Planting Plan - Basement	F	17/8/20	Site Image
L-302	Planting Plan – Ground Floor	F	17/8/20	Site Image
L-302.1	Planting Plan – Ground Floor Existing Building	F	17/8/20	Site Image
L-303	Planting Plan – Second Floor	F	17/8/20	Site Image
L-501	Landscape Specification & Details	F	17/8/20	Site Image
DA1.01	Coversheet, Drawing Schedule and Locality Plan	1	26/6/19	Northrop
DA2.01	Concept Sediment and Erosion Control Plan and Details	1	26/6/19	Northrop
DA2.21	Cut and Fill Plan	1	26/6/19	Northrop
DA3.01	Concept Stormwater Management Plan – Basement	4	20/8/20	Northrop
DA3.02	Concept Stormwater Management Plan – Ground Floor	4	20/8/20	Northrop
DA4.01	On-Site Detention Tank	2	8/5/20	Northrop

	Sections			
DA5.01	Typical Details	2	8/5/20	Northrop

The development plans shall be amended as follows:

- a) Fire sprinklers to be shown on all relevant plans.
- 3) A landscape maintenance schedule period of 12 months is to be applied to this development. During this maintenance period, the landscaping must be maintained in accordance with the details specified on the submitted landscape plans.
- 4) All the tree supply stocks shall comply with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).
- 5) The Plan of Management shall be displayed in prominent locations within the premises. The Applicant/Operator shall be responsible for ensuring that the terms of the Plan are adhered to.
- 6) The Plan of Management submitted in support of the application, as amended by the conditions of this consent, forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.
- 7) All service and utility elements such as air conditioning, communal antennas and clothes drying area must be integrated into the design and screened from public view.
- 8) Intercom, code or card locks or similar must be installed at main entries to the building to control access.
- 9) No approval is granted for the siting of any substation on the site. A modification application must be lodged to Council if a substation is required. Any such application must demonstrate how the structure/facility will be integrated into the design of the building without relying on the front setback area.
- 10) Any required fire hydrants, boosters and other services must be contained within cabinets using materials and colours from the approved external finishes and shall not impede on the approved landscaped areas.
- 11) A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with Canterbury DCP-2012-Part F1.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

Prior to the release of a Construction Certificate the following conditions MUST be satisfied and nominated fees/contributions/bonds paid:

- 12) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 13) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 14) The approved development plans shall be amended as follows and provided to the Principal Certifying Authority prior to the issue of any Construction Certificate:
 - a) The location of all service and utility facilities such as air conditioning units, antennas, clothes drying areas and hot water systems are to be decided prior to the issuing of a Construction Certificate. The facilities are to be integrated within the design of the building and are to be screened from public view. Details of the location of these facilities are to be shown on plans prior to the issuing of a Construction Certificate.
- 15) An automatic watering system is to be installed in common areas at the applicant's cost. Details including backflow prevention device, location of irrigation lines and sprinklers, and control details are to be communicated to Council or certifier prior to the issue of the Construction Certificate. The system is to be installed in accordance with the manufacturer's specification and current Sydney Water guidelines.
- 16) A photographic survey must be prepared of the adjoining property at 30 Skinner Avenue, Riverwood, detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, and shall be submitted to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate. On completion of the excavation and building works and prior to the occupation of the building, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority and Canterbury Bankstown Council if Council is not the Principal Certifying Authority. If damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person(s) as soon as possible and prior to the occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the persons entitled to act on this Consent.
- 17) A dilapidation report prepared by an accredited structural engineer registered on the National Engineering Register (NER), NSW Fair Trading or with the Building Professionals Board (BPB), detailing the structural adequacy of the adjoining property at 30 Skinner Avenue, Riverwood, and their ability to withstand the proposed excavation, and any measures required to be incorporated into the work to ensure that no damage will occur during the course of the works, shall be submitted to Council, or the Principal Certifying Authority prior to the issue of a Construction Certificate. All costs to be borne by the applicant.

- 18) Prior to the issue of a Construction Certificate, the site is to be remediated in accordance with:
- a) The approved Remedial Action Plan, prepared by JKEnvironments Pty Ltd, titled Leigh Place Aged Care Remedial Action Plan, dated 30 June 2020, reference E29038PHrpt3-RAP;
 - b) *State Environmental Planning Policy No. 55 - Remediation of Land*; and
 - c) The guidelines in force under the *Contamination Land Management Act 1997*.

The applicant must engage an appropriately qualified and experienced environmental consultant to supervise all aspects of site remediation and validation.

Any variations to the approved Remediation Action Plan must be submitted to and approved in writing by the Accredited Site Auditor and Council prior to the continuing of such work.

- 19) A site validation report is to be prepared on completion of remediation activities and submitted to Council to demonstrate that the site is suitable for the proposed development.
- 20) A soil erosion and sediment control plan must be prepared by a suitably qualified professional, in accordance with Council's Demolition and Construction Guidelines and Council's Development Engineering Standards, and submitted to the certifying authority for approval prior to the issue of a construction certificate.
- 21) The Council Approved building plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) would affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Please refer to www.sydneywater.com.au/tapin

For Sydney Water's Guidelines for building over or next to assets, visit www.sydneywater.com.au 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN.

Prior to release of a construction certificate Sydney Water must issue either a Building Plan Assessment letter which states that your application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 22) A long service levy payment which is 0.35% of the total cost of the work is to be paid to the Building and Construction Industry Long Service Payments Corporation.
- 23) The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

The building work must be carried out in accordance with the requirements of the National Construction Code Building Code of Australia, Volume One.

- 24) The Construction Certificate plans must demonstrate compliance with the requirements of the BCA/NCC advice letter prepared by BLACKET MAGUIRE + GOLDSMITH, dated 12 May 2020. Details of any Fire Engineered Solutions and deemed-to-satisfy provisions must be provided in full for approval with the Construction Certificate.
- 25) The Construction Certificate plans shall include all of the attenuation measures recommended in the submitted Environmental Noise Impact Assessment, prepared by Day Design Pty Ltd, dated 23 July 2019, reference number 6717-1.1R, and Noise Intrusion Report, prepared by Day Design Pty Ltd, dated 23 July 2019, reference number 6717-1.2R. The development shall be constructed to include all of the recommended attenuation measures and the acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.
- 26) A certificate from a professional engineer certifying the structural capacity of the development will be appropriate to the building's proposed use must be provided to the certifying authority prior to the issue of a construction certificate.
- 27) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.
- 28) Stormwater drainage from the development shall be designed so as to comply with Council's Canterbury Development Control Plan 2012 Part B5. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plans prepared by Northrop Consulting Engineers, drawing number DA2.01 (Rev 1 dated 26.6.19), DA2.21 (Rev 1 dated 26.6.19), DA3.01 (Rev 4 dated 20.8.20), DA3.02 (Rev 4 dated 20.8.20), DA4.01 (Rev 2 dated 8.5.20), DA5.01 (Revision 2, dated 8.5.2020). The final plans shall be certified by the design engineer that it complies with Council's *Canterbury Development Control Plan 2012* Part B5 and the relevant Australian Standards.
- 29) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.

- 30) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street.
- 31) The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890 parking series. In this regard, the submitted plans must be amended to address the following issues:
- a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*.
 - b) The driveway grades shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 - Carparking Facilities".
 - c) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that Headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
 - d) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of *AS/NZS 2890.1-2004*.
 - e) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of *AS/NZS 2890.1:2004*.
- 32) The developer shall apply for a Work Permit and obtain approval from Council, for the following engineering works in front of the site, at the applicant's expense:
- a) The existing driveways fronting Skinner Avenue shall be reconstructed of heavy duty VFC to suit the approved proposal driveway widths.
 - b) Drainage connection to Council's kerb & gutter system.
 - c) Removal of all redundant driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - d) Repair of any damage to the public road including the footway occurring during development works.
 - e) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Council is required to prepare a site survey and design in order to determine the necessary information. The developer should make application and payment for the Work Permit at least twenty one (21) days prior to the information being required and prior to the issue of the Construction Certificate. The Work Permit must be approved prior to any works commencing within the Council Road Reserve or on Council's assets.

- 33) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires the developer to obtain a Works Permit and or a Roadway/Footpath Building Occupation Permit prior to issue of any Construction Certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

**A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS
WORKS REQUIRING A 'WORKS PERMIT'**

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,
- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$25,000.
- m) Demolition is proposed.

The developer shall construct all proposed works within the public road and footway under the supervision and to the satisfaction of Council. The developer shall arrange for necessary inspections by Council whilst the work is in progress.

- 34) The developer shall ensure the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars. The developer shall provide proof of the policy, to Council, prior to commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.
- 35) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 36) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or

other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 37) A vacant land charge form is to accompany any Construction Certificate application for the removal of all domestic garbage and recycling bins.
<https://www.cbcity.nsw.gov.au/council/forms/waste-recycling>
- 38) A design certificate and detailed plans are to accompany any Construction Certificate application which demonstrate that the waste storage room has been designed to be constructed in accordance with the following requirements:
- a) Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
 - b) The floors must be finished so that is non-slip and has a smooth and even surface.
 - c) The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
 - d) The walls must be constructed of solid impervious material.
 - e) The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
 - f) Walls, ceiling and floors must be finished in a light colour.
 - g) Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
 - h) A self-closing door openable from within the room.
 - i) Must be constructed to prevent the entry of birds and vermin.
 - j) Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
 - k) Any doorways must be 2m wide.
 - l) Designed with a minimum floor space of 36.42m².
- 39) A design certificate and detailed plans are to accompany any Construction Certificate application which demonstrate that the temporary waste holding area has been designed to be of sufficient size to allow the temporary storage of all allocated bins for the development.
- 40) A design certificate and detailed plans are to accompany any CC application which demonstrate that the bin carting route from the temporary waste holding area to the nominated kerbside collection point has been designed to be constructed in accordance with the following requirements:

- a) Direct and less than 15 metres,
 - b) Minimum 2m wide hard surface;
 - c) Non-slip, free from obstacles and steps;
 - d) Not within a driveway or carpark, this is considered a conflict point for vehicles and collection staff; and
 - e) A maximum grade of 1:30 (3%);
 - f) Layback installed at the nominated collection point.
- 41) A design certificate and detailed plans are to accompany any Construction Certificate application which demonstrate that the bulky waste storage room has been designed to be constructed in accordance with the following requirements:
- a) Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting.
 - b) The floors must be finished so that is non-slip and has a smooth and even surface.
 - c) The walls must be constructed of solid impervious material.
 - d) The room is to be integrated within the building, a minimum 2.1m unobstructed room height is required in accordance with the Building Code of Australia;
 - e) The ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned.
 - f) Walls, ceiling and floors must be finished in a light colour.
 - g) Is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.
 - h) A self-closing door openable from within the room.
 - i) Must be constructed to prevent the entry of birds and vermin.
 - j) Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room.
 - k) Any doorways must be 2m wide.
 - l) Designed with a minimum floor space of 11m².
- 42) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the constructions site;
- c) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;

- e) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f) Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "State Road" via "Regional Roads", with every effort to avoid school zones on public roads. Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.**

An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council to rectify damages to public property adjacent to the site as a consequence of building works shall be lodged with Council prior to release of any Construction Certificate. Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 43) Prior to the issue of any Construction Certificate for this development, the Principal Certifying Authority must approve a Site Operations Management Plan (SOMP). This Plan must address the measures that will be implemented for the ongoing management of operations on and around the construction site, the protection of adjoining properties, and other requirements as specified below.

This plan shall include details of the following:

- a) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- b) Proposed measures to be implemented, under the separately approved Works Permit issued by Council, for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- c) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be

certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.

- d) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- e) Proposed measures for protection of the environment, according to the relevant provisions of the Protection of Environment Operations (POEO) Act, 1997 including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

A number of the above matters may require separate approval from Council, particularly those relating to works on or adjacent to Council property. These may be covered by separate conditions of consent contained in this Determination Notice. Appropriate approvals will need to be obtained prior to the approval of this plan.

The approved Site Operations Management Plan is to be implemented prior to the commencement of any works on the site, and an approved copy provided to Council for information. Ongoing compliance with the matters detailed in the SOMP shall be monitored by the appointed Principal Certifying Authority.

- 44) A dilapidation report, including photographs (carried out by a qualified structural engineer) of the adjoining properties, is to detail the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members, retaining walls and other similar items, and shall be submitted to the Principal Certifying Authority (and Council if it is not the Principal Certifying Authority) prior to the issue of a Construction Certificate.

On completion of the excavation and building works and prior to the issue of an Occupation Certificate, a certificate stating to the effect that no damage has resulted to adjoining premises is to be provided to the Principal Certifying Authority (and Council if it is not the Principal Certifying Authority). If damage is identified which is considered to require rectification or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to occupation of the development. All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this consent.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 45) The building work in accordance with the development consent must not be commenced until:
 - a. a construction certificate for the building work has been issued by the council or an accredited certifier, and
 - b. the person having benefit of the development consent has:
 - i. appointed a principal certifying authority for the building / subdivision work, and

- ii. notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - c. the person having the benefit of the development consent, if not carrying out the building work as an owner-builder, has:
 - i. appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the principal certifying authority of any such appointment, and
 - iii. unless the person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - d. the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the building / subdivision work.
- 46) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone.
 - 47) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
 - 48) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
 - 49) Prior to the commencement of work, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
 - 50) Prior to the commencement of work, a fence must be erected around the area of the works, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the area. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high. All fencing is to be maintained for the duration of construction to ensure that the work area is secured.

Where the work is located within 3.6m of a public place then a Type A or Type B hoarding must be constructed appropriate to the works proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval prior to the commencement of work.

- 51) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- 52) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- a. in the case of work for which a principal certifying is required to be appointed:
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of the Act,
 - b. in the case of work to be done by an owner-builder:
 - i. the name of the owner-builder, and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 53) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 54) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a. showing the name, address and telephone number of the principal certifying authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 55) Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.
- 56) The building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 57) Works must be undertaken in compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Ausgrid’s Network Standards can be sourced from Ausgrid’s website, www.ausgrid.com.au

- 58) An identification report by a registered surveyor must be submitted to the principal certifying authority prior to the ground floor slab being poured to verify the buildings wall setbacks and floor level conform to the approved plans.
- 59) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's *Canterbury Development Control Plan 2012* Part B5. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 60) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 61) If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 62) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - a. protect and support the adjoining premises from possible damage from the excavation, and
 - b. where necessary, underpin the adjoining premises to prevent any such damage.
- 63) The stormwater drainage system shall be constructed in accordance with Council's *Canterbury Development Control Plan 2012* Part B5 and the engineering plans and details approved by the Principal Certifying Authority (PCA). *Should the developer encounter any existing, live, underground*

stormwater drainage pipes, which carry flow from upstream properties, the developer must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at the developer's expense.

- 64) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 65) In the instance that works cause the generation of odours or uncovering of unexpected contaminants, works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that a NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a Site Audit Report and Site Audit Statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

- 66) Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be included within the validation report; or provided to Council prior to the issue of an Occupation Certificate.

All imported fill must be compatible with the existing soil characteristics of the site.

- 67) Any soils to be excavated and disposed of from the site must be analysed and classified by a suitably qualified environmental consultant, in accordance with relevant NSW EPA guidelines including the 'Waste Classification Guidelines' (NSW EPA, 2014) prior to off-site disposal.

Any waste material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.

- 68) If the Duty to Report contamination to the NSW EPA under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within seven (7) days of the notification to the NSW EPA.
- 69) All excavations must be kept free from the accumulation of water.

- 70) Requirements of the approved Waste Management Plan (WMP) shall be complied with during all site preparation works, demolition (if proposed) and throughout all construction works.

When implementing the WMP the developer is to ensure:

- a) The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*.
- b) All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*.
- c) Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.
- d) All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it.
- e) Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste.
- f) All materials and resources that are to be stored on site during construction works are contained on the site. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses.
- g) The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 71) The occupation or use of the building must not be commenced unless an occupation certificate has been issued for the building.
- 72) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 73) The Applicant is to fund the installation of signs and a kerb ramp to allow bins to be collected unhampered from the kerbside. This will need to be reported to the Traffic Committee.
- 74) Prior to the issue of an Occupation Certificate, a form of agreement is required to be reached between the two owners with corresponding legal instruments

placed on the two titles, to ensure that neither owner can alter or remove the structure without the consent of the other and require that the properties cannot be sold individually (other than to each other).

- 75) Thirty (30) off street car spaces are to be provided in accordance with the submitted plans.
- 76) Landscaping is to be installed in accordance with the approved landscape plans. All works and methods nominated and materials and plants specified on the approved landscape plans are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 77) An identification report by a registered surveyor must be submitted to the principal certifying authority to verify the buildings wall and roof eaves setback, floor level and height conform to the approved plans.
- 78) A suitably qualified Professional Civil Engineer shall certify that the driveway, parking bays, and service areas have been constructed in accordance with the approved plans and specifications. Such certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.
- 79) Lighting must be provided to the building entries, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. Lighting provided should be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents.
- 80) A Section 73 compliance certificate under the Sydney Water Act 1994 must be submitted to the principal certifying authority before an occupation certificate will be issued.
- 81) The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act.

Note: The location of the "On-Site Stormwater Detention System" shall be shown on the plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the "On-Site Stormwater Detention System" shall be included on an A4 size site plan attached to the Section 88E Instrument and registered on the title prior to the issue of the final occupation certificate.

The developer shall submit to Council evidence of the final registration of the Restriction and Positive Covenant on the title of the property.

- 82) A Copy of the Work Permit Compliance Certificate shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- 83) Prior to the issue of any Occupation Certificate, the owner is to enter into a formal agreement with a licenced private waste contractor to service the

development. The contract is to ensure the removal of all waste from the development site.

Prior to entering into an agreement for a private commercial waste collection service, the owner is to ensure that:

- a) The service is functional and meets the operational needs of the development
- b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.

A copy of the contract is to be forwarded to Council prior to the issue of any Occupation Certificate.

CONDITIONS TO BE SATISFIED FOR ONGOING USE

- 84) The Residential Aged Care Facility must not be used in isolation of the existing aged care facility at 12-18 Leigh Avenue, Riverwood.
- 85) The Residential Aged Care Facility must only be occupied by the kinds of people referred to in Section 18(1) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* i.e. seniors and staff employed to assist in the administration of and provision of services to the aged care facility. This does not restrict visitors or anyone providing services from accessing the facility.
- 86) The nominated collect and return collection point is to be utilised to facilitate the collection of all waste and recycling bins for the development.
- 87) A caretaker will be required to transfer all allocated bins from the bin storage room to the temporary waste holding area the day before the designated collection day and return them once emptied
- 88) All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal and be able to show the waste collection contract if it is requested by a Council Enforcement Officer.
- 89) No waste storage bins are to be located or placed outside the approved waste storage room at any time except for collection purposes.
- 90) All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.
- 91) Pedestrian sight distance triangles to be kept clear of any obstructions (no shrubs, walls, fire hydrants, electrical boxes).
- 92) Should a noise issue (relating to the development) not previously identified arise (through complaint or otherwise), the owner/occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation

assessment of the development and complete an acoustic report with recommendations to rectify the situation. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.

- 93) The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the 'Assessing Vibration: A Technical Guideline' (NSW Department of Environment and Conservation, 2006).
- 94) The operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 95) Car parking spaces for 30 vehicles shall be provided in marked spaces in the manner generally shown on the approved plans.

A minimum of 16 car parking spaces must be allocated to staff, and a minimum of 11 car parking spaces allocated to residents and visitors.

The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.

- 96) All loading and unloading of goods shall take place within the site in a manner that does not interfere with parking areas, driveways or landscaping and be kept clear for that purpose at all times.
- 97) The use of the premises shall not contravene the *Protection of the Environment Operations Act 1997*. The operation of the premise shall be carried out in accordance with the requirement of the NSW EPA, where relevant.
- 98) No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 99) Identification number/s are to be conspicuously displayed at the front of the premises.
- 100) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 101) The residential aged care facility must be operated and managed by an approved provider under the *Commonwealth Aged Care Act 1997*.

102) The residential aged care facility must be operated in accordance with the *Leigh Place, Plan of Management, Residential Care Facility* submitted with the development application.

SCHEDULE A: ADVICE TO APPLICANTS

- The strip drainage in front of the bin storage area may cause an obstacle with the movement of bins and this should be considered when selecting the type of drain cover.
- The loading dock will not be able to be used when collections are being undertaken and an operational management plan will need to be developed to ensure this is managed effectively.
- Inspection of building works shall be undertaken as determined by the PCA. If Canterbury-Bankstown Council has been nominated as the PCA then details of inspection type and number required will be determined prior to the issue of a construction certificate.
- Compliance with the National Construction Code does not guarantee protection from prosecution under "The Disability Discrimination Act". Further information is available from the Human Rights and Equal Opportunity Commission on 1300 656 419.
- Also, before you dig, call "Dial before you Dig" on 1100 (listen to the prompts) or facsimile 1300 652 077 (with your street no./name, side of street and distance to nearest cross street) for underground utility services information for any excavation areas.