



AGENDA FOR THE CANTERBURY BANKSTOWN LOCAL PLANNING PANEL MEETING

8 December 2025 - 6.00 pm

**Location:
Council Chambers
corner Chapel Road and the Mall
Bankstown**

Welcome to the City of Canterbury Bankstown

We're committed to creating a liveable and loveable City for all our residents. Here's how we're doing it:



Great Cities

We believe in creating vibrant, dynamic, and diverse communities that offer opportunities for people to connect, pursue their passions, and contribute to the world around them.



Naturally Green

We protect and prioritise nature in and around our city to enhance environmental sustainability and improve the quality of life for our residents.



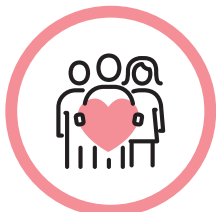
Design Excellence

We encourage buildings, spaces, and objects that are both beautiful and practical, enhancing the beauty, accessibility, and safety of our built environment.



People First

We prioritise the needs, preferences, and aspirations of our community in all aspects of urban planning and design, creating supportive and enriching places people love.



Community

We engage with our community to ensure their needs and aspirations are reflected in the outcome, creating sustainable, resilient, vibrant, diverse, and inclusive places.



Sustainability

We seek designs that reduce negative impacts on the environment while also promoting social and economic well-being.



Net-Zero

We encourage our community to design buildings and places that produce as much renewable energy as they consume, reducing greenhouse gas emissions, lowering energy bills, and increasing resilience to environmental shocks and stresses.

Join us in creating a City that's liveable, loveable, and sustainable for all!

ORDER OF BUSINESS

APOLOGIES AND DECLARATIONS

CONFIRMATION OF PREVIOUS MINUTES

BUDJAR / CANTERBURY WARD

1 16-22 Pheasant Street, Canterbury

Demolition of existing on-site structures and construction of a multi dwelling housing development of 18 two-storey dwellings with associated landscaping and swimming pool above a basement garage 3

2 221-235, 241-247A Homer Street and 208 Wardell Road, Earlwood

Modify the approved five storey shop top housing development to include two additional stories for 22 dwellings, a new third level basement and internal and external alterations to the approved development including ground and basement level layouts 47

BUNYA / REVESBY WARD

3 2 Ellesmere Street, Panania

Alterations and additions to a newly built structure in accordance with approved Complying Development Certificate (CDC 20210284) and use as a two-storey detached secondary dwelling and attached garage 107

BUNMARRA / ROSELANDS WARD

4 618 Canterbury Road, Belmore

Extend the hours of operation of St George Hotel (Pub) to 4.00 am Monday to Saturday, and any public holidays falling on those days 139

Canterbury Bankstown Local Planning Panel - 08 December 2025

ITEM 1	16-22 Pheasant Street, Canterbury
	Demolition of existing on-site structures and construction of a multi dwelling housing development of 18 two-storey dwellings with associated landscaping and swimming pool above a basement garage
FILE	DA-929/2025 – Budjar / Canterbury Ward
ZONING	R3 Medium Density Residential
DATE OF LODGEMENT	25 August 2025
APPLICANT	Designcorp Architects Pty Ltd
OWNERS	Charbel Chedrawi, Pheasant Pty Ltd and CT Pheasant Street Pty Ltd
ESTIMATED VALUE	\$13,437,017.00
AUTHOR	Planning

REPORT

This matter is reported to Canterbury-Bankstown Council's Local Planning Panel (the Panel) in accordance with Schedule 2, Part 2 (a) of the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consents*, issued by the Minister for Planning and Public Spaces under section 9.1 of the *Environmental Planning & Assessment Act 1979* on 6 March 2024. The application seeks consent for a development which is the subject of 10 or more unique submissions by way of objection, as outlined in Canterbury-Bankstown Council's approved submission policy, categorising the development as contentious.

Development Application DA-929/2025 proposes the demolition of all existing on-site structures, and the construction of a multi dwelling housing development of eighteen (18) two-storey dwellings with associated landscaping, common areas, and a swimming pool above a basement garage.

Development Application DA-929/2025 has been assessed having regard to the matters for consideration contained in section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, requiring an assessment against the provisions contained within:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Sustainable Buildings) 2022,
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP), and
- Canterbury Bankstown Development Control Plan 2023 (CBDCP).

The application does not comply with various development standards and controls, including (but not limited to) site suitability for a basement garage, earthworks, solar access and overshadowing, building and wall heights, and provision of deep soil/landscaping, all of which combine to demonstrate that the development is not suitable for the site.

The application was neighbour-notified and advertised for two 21-day periods, the first ending on 30 September 2025 and the second ending on 2 December 2025. As part of the first advertising period, 38 submissions were received, of which 34 were unique. The result of the second advertising period will be included as a supplementary document for the Panel consideration. The submissions received relate predominantly to the potential impacts of traffic and parking on Pheasant Street, which is a no through road. Other concerns relate to the general impacts to amenity, overshadowing and tree removal among others. The assessment of the application, taking into account the planning controls and concerns raised by the objectors, found that the proposed development is unsuitable for the site.

POLICY IMPACT

Approval of this proposal will set an undesirable precedent within the locality with regard to basement garages and overshadowing allowance for similar development typologies.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that development application DA-929/2025 be **REFUSED** for the reasons set out in Attachment 2.

ATTACHMENTS

1. Section 4.15 Assessment Report
2. Reasons for Refusal

DA-929/2025 ASSESSMENT REPORT

SITE AND LOCALITY DESCRIPTION

The subject site (the site) is known as 16-22 Pheasant Street, Canterbury NSW 2193, and is comprised of four allotments, being Lots 66, 67, 68 and 69 in Deposited Plan 11299. The combined lots have a total frontage to Pheasant Street of 48.76m, and a varying depth to the site ranging from approximately 61.99m to approximately 73.4m. The site has a combined area of 3420.8m² and has an east-west orientation. The site and its existing structures are indicated in figure 1 below.

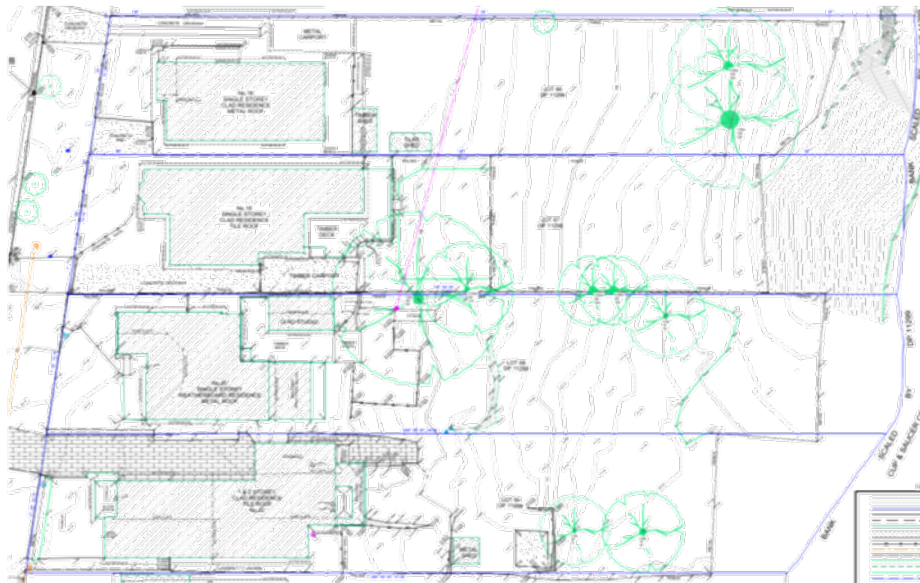


Figure 1: Existing site form Source: Detailed Survey – Axiom Spatial Surveyors Pty Ltd

The four lots that constitute the site are regular in shape, but each have an irregular rear (western) boundary, assumed to have been scaled by the banks of Cup and Saucer Creek at the time of subdivision. The existing built form across the lots comprises three single storey clad and weatherboard dwellings and one double storey clad dwelling. Ancillary structures include carports, sheds and a studio. The site contains ten trees and located forward of the site boundaries of 16 and 18 Pheasant Street are three shrubs.

The site contains a crossfall from the eastern front boundary on Pheasant Street to the western rear boundary towards Cup and Saucer Creek of 11.2m (highest RL of 22.7, lowest RL of 11.50). The fall from the street is consistent for (approximately) the first 54m, before falling steeply at the rear due to the presence of a sandstone rocky outcrop. An aerial image of the site and limited surrounds is shown in figure 2, with the site outlined in blue, figure 3 shows the existing natural ground line in green across a long section of the site, and the sandstone outcrops are shown in figures 4 and 5.



Figure 2: Aerial image of 16-22 Pheasant Street, Canterbury and limited surrounds
Source: Nearmap



Figure 3: Long section of the site – Natural ground level in green
Source: Architectural Plans – Designcorp Architects



Figures 4 and 5: Sandstone outcrop to the rear of the site
Source: Site inspection photo – Assessing Officer

A small portion of the site towards the rear boundary is flood affected, being impacted by the adjacent Sydney Water open concrete lined canal known as Cup and Saucer Creek. This concrete lined canal can be seen running adjacent to the rear of the site in figure 2 (above) and figure 6 (below) indicates the approximate flood risk affected areas.



Figure 6: Approximate flood risk areas – 100-year level in blue, probable maximum flood level in pink **Source:** Weave- CBC Maps

Pheasant Street is a 'no through road' containing approximately 30 lots, with access provided exclusively through Glenore Road. The site and the surrounding properties are zoned R3 Medium Density Residential, with RE1 Public Recreation areas to the east and a nearby area to the north-east of SP2 Infrastructure. The principal development typology within Pheasant Street and nearby Glenore Road is single detached dwellings, with only few higher density forms observed. 30-32 Pheasant Street at the end of the street contains a multi dwelling housing development of 5 detached dwellings (DA-620/2010), and 1 Pheasant Street contains an attached dual occupancy (CD-260/2022). To the east and south of the site is Hughes Park, a Council owned passive park and cricket/soccer sporting field. To the north-east is an area of SP2 Infrastructure owned by Ausgrid and used for 'Electricity Generating Works'. An excerpt of the land zoning map with the subject site outlined in yellow is provided in figure 7.



Figure 7: Land Zoning Map – R3 Zone in pink, RE1 Zone in green, SP2 Zone in yellow **Source:** NSW Planning Portal Spatial Viewer

SITE AND APPLICATION HISTORY

Previous applications which relate to the site include DA-176/2017 for 20 and 22 Pheasant Street, Canterbury. Approved on 6 June 2017, the application was for the demolition of existing structures and construction of multi dwelling housing development containing nine townhouses (including two for affordable housing under State Environment Planning Policy - Affordable Rental Housing), with basement parking, strata subdivision and consolidation of the two lots. Subsequent modification applications were received, including DA-176/2017/A, amending the location of bin storage areas, landscape and soil deep areas, and reducing floor levels (approved 18 July 2018), and DA-176/2017/B allowing one additional dwelling at rear of the development (from 9 to 10 dwellings) and associated internal and external changes (approved 9 September 2020).

DA-176/2017 was not activated and the consent has since lapsed. It is also noted that the approval was issued under the former planning regiment of Canterbury Local Environmental Plan 2012 and Canterbury Development Control Plan 2012.

On 25 August 2025, DA-929/2025 (the application) was lodged with Council for the demolition of existing on-site structures and the construction of a multi dwelling development of 18 two-storey dwellings with associated landscaping and swimming pool above a basement garage. The application was advertised for 21 days from 10 to 30 September 2025 in line with the Canterbury-Bankstown Community Participation Plan. The application drew significant community interest, with 38 submissions received objecting to the development during the exhibition period (34 unique).

During the advertising period not all of the relevant documents were available on the Portal and consequently, the application was readvertised from 12 November to 3 December 2025.

It is noted that the re-advertising of the application with the additional documents commenced on 12 November 2025 and will end on 2 December 2025. Any additional submissions and Council's responses will be provided to the Panel as a supplementary document on 4 December 2025.

On 30 October 2025, Council wrote to the applicant advising that it could not support the application and would recommend it be refused if it was not withdrawn beforehand. The application has not been withdrawn, nor have amended plans been submitted.

As a total of 38 submissions were received (34 being unique), during the initial advertising period and in accordance with relevant directions, the application is referred to the Canterbury-Bankstown Local Planning Panel for determination.

PROPOSED DEVELOPMENT

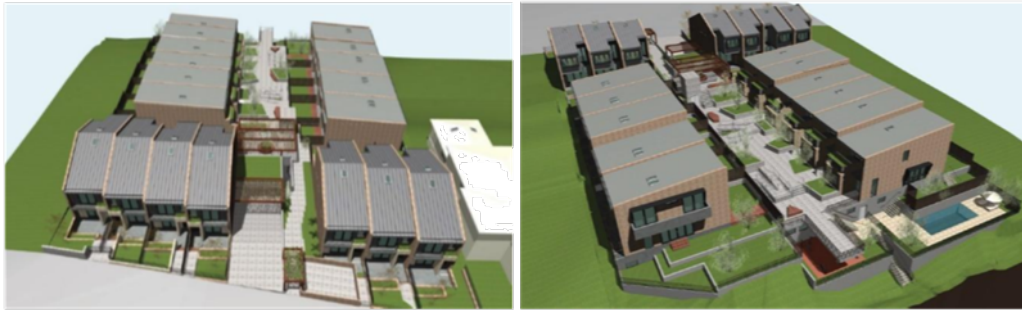
The application proposes demolition of existing on-site structures and the construction of a multi dwelling development of 18 two-storey dwellings with associated landscaping and swimming pool above a basement garage. The particulars contained within each area of the development are listed in the table below:

Area of development	Proposed works as per submitted plans and documents
Existing site	- Demolition of existing buildings. - Demolition of ancillary structures. - Removal of ten (10) trees on site. - Consolidation of lots.
Basement Garage	- 36 residential car spaces: • 5 double garages with storage and private stair access into associated dwelling, • 11 stacked garages with storage and private stair access into associated dwelling, • 1 single garage with storage and private stair access into associated dwelling, • 1 single car space. - 4 visitor spaces: • 1 accessible space, • 3 car spaces. - 1 loading zone, 1 car wash bay and 1 turning bay. - Private storage rooms for dwellings 4, 5, 17 and 18. - 2 storage/service areas. - Waste room with bulky waste storage. - Lift and 2 sets of fire stairs.
Ground and First Floor	- Basement ramp access via new central vehicular footway crossing Pedestrian access into the site and common areas. - Temporary waste collection area. - 18 double storey, 3 bedroom dwellings, with associated balconies and private open space. - Central communal areas. - Landscaping works. - Swimming pool. - Outdoor gym.

The application does not include subdivision into strata title lots and is proposed to remain as one consolidated lot.

The streetscape presentation of the development as viewed from Pheasant Street is shown in figures 8, 9 and 10.





Figures 8, 9, 10: 3D render of streetscape, elevated front and rear view
Source: Architectural Plans – Designcorp Architects Pty Ltd

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in section 4.15 of the *Environmental Planning and Assessment Act 1979* must be considered. In this regard, the following environmental planning instruments and development control plans are relevant:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Sustainable Buildings) 2022,
- Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP), and
- Canterbury-Bankstown Development Control Plan 2023 (CBDCP).

SECTION 4.15 ASSESSMENT

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

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 [SEPP (Biodiversity and Conservation) 2021] aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. Chapter 2 applies to the whole of the Canterbury-Bankstown LGA, including the subject development site.

Part 2.3, Section 2.9 in SEPP (Biodiversity and Conservation) 2021 requires a permit issued by the Council for the removal of any of the following prescribed types of vegetation in accordance with Canterbury-Bankstown Development Control Plan 2023, Chapter 2.3 “Tree Management”:

- a) all trees that are 5m or more in height; and
- b) all mangroves, regardless of size; and

- c) all trees, regardless of size, listed as Vulnerable or Endangered or a component of an Endangered Ecological Community listed under the Biodiversity Conservation Act 2016; and
- d) all trees, regardless of size, listed under the Environmental Protection and Biodiversity Conservation Act 1999; and
- e) all trees, regardless of size, located on land included on the Biodiversity Map under the Canterbury Bankstown Local Environmental Plan 2023; and
- f) all trees, regardless of size, located on sites listed as a heritage item in Schedule 5 of the Canterbury Bankstown Local Environmental Plan 2023; and
- g) all trees, regardless of size, located in the foreshore area under the Canterbury-Bankstown Local Environmental Plan 2023.

The application is supported by an "Arboricultural Impact Assessment" prepared by NSW Trees Arboricultural Consultants, reference "AIA-NCP 02/25 Rev A.", dated 20/02/2025. The report identifies ten prescribed trees for which a permit under s2.9 is required.

The report concludes that the majority of identified trees are considered environmentally insignificant, of low retention value and/or declining in health, and supports their removal. The only tree which does not fall within this category is tree T2 - a large mature Hills Weeping Fig. This tree contributes significantly to the landscape amenity and canopy coverage of the area, but has wide spanning surface roots and would require a considerable tree protection zone and setbacks. Maintaining the tree would impose design constraints on the development, particularly with relation to any proposed basement. The report supports the removal of the tree in the context of the proposed development.

The site is not located in an area subject to a biodiversity offsets scheme, is not categorised as biodiversity certified land and the removal of the ten trees is supported by Council's Tree Management Officer given the context of the proposed design and replanting schedule. As such, the development is considered consistent with the relevant provisions of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Chapter 4, Section 4.6 'Remediation of land' of State Environmental Planning Policy (Resilience and Hazards) 2021 requires a consent authority to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. The following relates to the site:

- The site is zoned R3 Medium Density Residential and has consistently been used for residential purposes.
- A search of Council records did not include any reference to contamination on site or previous uses of the site that may have caused contamination.
- A "Preliminary Site Investigation" report prepared by Foundation Earth Sciences, reference E3307, dated 08/07/2025 accompanies the application.

Whilst the search of Council's records did not return any references to contamination on site, the preliminary site investigation found sufficient evidence, uncertainty and/or suspicion of contamination to require further investigation. As such, a detailed site investigation by a suitably qualified Environmental Consultant was recommended but not provided.

The proposed development therefore does not adequately satisfy the relevant provisions of Chapter 4, Section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy (Sustainable Buildings) 2022

State Environmental Planning Policy (Sustainable Buildings) 2022 [SEPP (Sustainable Buildings) 2022] aims to encourage the design and delivery of sustainable buildings, ensuring consistent assessment of sustainability in buildings, minimising the consumption of energy, reducing greenhouse gas emissions, minimising the consumption of mains-supplied potable water and ensuring good thermal performance of buildings. The instrument sets standards for BASIX buildings, which are defined as developments which include at least 1 dwelling.

Schedule 1 of SEPP (Sustainable Buildings) 2022 sets out standards which apply to the erection of a new BASIX building. A BASIX certificate accompanies the application, establishing various requirements with relation to the development.

Several areas of inconsistency were identified between the commitments identified in BASIX certificate and the submitted plans. These include inconsistencies between the stated amount of conditioned floor area stated and provided, garden/lawn per dwelling and the actual amount provided, no indication of the volumes of the proposed rainwater tanks as well as the volume of the swimming pool, and no indicated location or performance ratings of hot water systems.

As the identified BASIX commitments are not detailed in, or consistent with, the submitted plans, the application is inconsistent with the provisions of Schedule 1 of SEPP (Sustainable Buildings) 2022.

Canterbury-Bankstown Local Environmental Plan 2023

An assessment against the relevant clauses of the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP 2023) is presented below, with areas which require further discussion expanded upon in the subsequent notes section.

CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023		
CLAUSE	COMMENT	COMPLY
1.2 Aims of Plan	The proposed development fails to demonstrate compliance with aims (a), (d), and (j).	No (see note 1)
2.2 Zoning of land to which Plan applies	The site is located on land shown as being zoned R3 Medium Density Residential as identified within the Land Zoning Maps.	Yes
2.3 Zone objectives and Land Use Table	Permissibility: Multi dwelling housing is permissible in the R3 Medium Density Residential Zone. Objectives: The proposed development fails to demonstrate compliance with the objectives of the zone.	No (see note 2)
2.7 Demolition requires development consent	Demolition of the existing site structures is proposed as part of the application and mentioned within the submitted statement of environmental effects (SEE). However, no dedicated and clear demolition plan is submitted, with structures to be demolished only acknowledged by a faint underlay on the submitted Cover Page/Site Plan (Sheet 0, Rev G). This plan fails to indicate details of existing vehicular footway crossings for removal, street vegetation removal or works to the rocky outcrop at the rear of the site.	No
4.3 Height of buildings - Height of Buildings Map	The maximum allowable building height applicable to the site is 8.5m. The external wall of dwelling 7 - South Elevation plan (Sheet 4, Rev G), and rear building height of dwelling 13 - Section F (Sheet 5, Rev G) indicate that the maximum building height limit has been exceeded, presenting walls of 8.8-8.9m in height. The SEE states that no buildings exceeding 8.0m in height are proposed for the site. No Clause 4.6 Variation report has been submitted in relation to the height breach.	No
4.4 Floor space ratio - Floor Space Ratio Map	The maximum floor space ratio (FSR) permitted for the site is 0.5:1. As per the architectural plans, the proposed development would result in a gross floor area (GFA) of 1,718.1m ² , for a FSR of 0.5:1. However, it is noted that the basement in certain areas projects over 1.0m above the existing natural ground level, resulting in areas which cannot be considered 'basement'. As shown in Section A (Sheet 5, Rev G) this affects the storage area of dwelling 18, which can no longer be considered exempt from inclusion as GFA. As the extent of the basement projection and the area this affects cannot be calculated, this leaves uncertainty with relation to the true GFA and FSR of the site, and uncertainty as to compliance with this control.	No
4.5 Calculation of floor space ratio and site area	The above assessment was carried out in accordance with this clause.	Yes

CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023		
CLAUSE	COMMENT	COMPLY
4.6 Exceptions to development standards	Clause 35B of the <i>Environmental Planning and Assessment Regulation 2021</i> requires the Applicant to prepare a written request setting out the grounds on which LEP variation matters are demonstrated. The development application was not accompanied by a written request for the proposed Clause 4.6 variation to Clause 4.3 for height, nor 4.4 for FSR. As a result, the application cannot be approved.	No
5.21 Flood Planning	The application was referred to Council's Development Engineer. No concerns with relation to the design of the development as it relates to flood planning were raised.	Yes
6.2 Earthworks	The proposed earthworks for the basement garage encompass approximately 68% of the site, and (as outlined in the submitted Geotechnical Report – Foundation Earth Sciences, Reference G774-1, 10/03/2025), the site bedrock comprises medium to high/very high strength inferred sandstone – likely to result in significant amenity impacts for the adjoining properties and those in the vicinity during excavation. A “compulsory” recommendation to engage a suitably qualified noise and vibration consultant was made within this report, however the SEE simply states, “Excavation techniques which focus on minimising disturbance resulting from noise and vibration transmission will be implemented”. A further recommendation of the Geotechnical Report that a dilapidation survey report be prepared “...on all structures and Pheasant Street carriageway located within the vicinity of the site...” rather than only those directly adjacent to the site, suggests an increased likelihood of impact than what is suggested by the SEE. With the provision of significant storage areas for some of the dwellings – some larger than the entire ground floor footprint of the dwellings themselves (See dwelling 4 storage, Sheet 1, Rev G) – it does not appear that attempts to minimise earthworks have been made. Further, information has not been provided as to the full extent of the earthworks as they relate to the rocky outcrops to the rear of the site – these areas in the plans are indicated as being the future pool and rear deep soil landscaped areas. Whilst the application acknowledges Clause 6.2, this clause has not been addressed sufficiently, nor do the proposed plans indicate that consideration of this clause went into the design of the basement garage, site earthworks generally, or noise and vibration impacts during construction.	No
6.3 Stormwater management and water sensitive urban design	The proposed development seeks to manage stormwater disposal from the site by having a pipe run from the site and directly into an open concrete drainage channel to the rear, Cup and Saucer Creek. In order to connect to the drainage channel, the pipe is run through a portion of land which directly adjoins the rear boundary of the site, and whose ownership has not been clarified.	No

CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023		
CLAUSE	COMMENT	COMPLY
	Council is unable to issue any consent for a development application where the availability of essential services for the site may rely upon construction across land/the creation of an easement where owners consent has not been sought or issued.	
6.9 Essential services	The proposed development presents concerns with several essential services including (d) stormwater drainage and (e) waste management (as explored further in this report).	No
6.15 Design excellence	In line with section (2)(b), the proposed development being for a multi-dwelling housing development of 10 or more dwellings must achieve design excellence as per this clause. The development fails to achieve the requirements of section (4) of this clause.	No (see note 3)

Note 1 – Clause 1.2 Aims of the Plan

The proposed development fails to demonstrate compliance with the following relevant aims of the Canterbury-Bankstown Local Environmental Plan 2023, and for the following reasons:

- (a) *to manage growth in a way that contributes to the sustainability of Canterbury-Bankstown*

The application fails to provide any indication of measures proposed for the site which would contribute towards or enhance the sustainability of Canterbury-Bankstown outside of the provision of a BASIX certificate. The development would see a significant intensification to the use of the site and a severe reduction of deep soil/impervious areas – transitioning from four modestly sized detached single dwellings with significant landscaped areas and canopy cover, to a multi dwelling housing complex of 18 dwellings, replacing deep soil with artificial turf and planter boxes above a basement, reduction of canopy cover and increased impervious areas. Insufficient information has been provided to indicate how the development would manage this growth in a manner which would contribute to the sustainability of Canterbury-Bankstown, as what has been provided suggests the development would result in a decrease of the existing sustainability contribution the site provides.

- (d) *to provide development opportunities that are compatible with the desired future character and amenity of Canterbury-Bankstown,*

The application presents a development which is not in line with Council's desired future character nor amenity of the area. As will be explored further within the report, the development as proposed relies heavily upon the provision of the basement garage. Council is supportive of basement garages, but only in the instance where site constraints necessitate their provision. No site constraints have been identified by the Applicant, and none exist which can be identified by Council, as the site slopes away from the street. As such, justification cannot be found as to how such a development is compatible with Council's desired future character.

Further, the development would likely result in significant amenity impacts upon the subject site itself and adjoining properties – partly as a consequence of the significant basement garage – which is incompatible with the desired future character of Canterbury-Bankstown. These impacts include (but are not limited to) significantly decreasing sunlight access to living spaces and private open space (both on site and to adjoining properties), decreased deep soil and landscaping opportunities, insufficient private open space, inappropriately located waste storage rooms and insufficiently considered noise and vibration impacts during construction.

- (j) *to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
The application was referred to Council's Urban Design Team, who advised that the development fails to achieve a high standard of general urban design as outlined in note 3 below. The layout of the 18 dwellings on the site impacts upon solar access, amenity of dwellings in relation to waste storage areas, the proposed building forms with gable roofs and how this exacerbates height breaches, usability of common spaces and private open space, among other matters explored further within this report.

Note 2 – Clause 2.3 Zone Objectives and Land Use Table

The proposed development fails to demonstrate compliance with the following objectives of the R3 Medium Density Residential Zone, and for the following reasons:

- *To ensure suitable landscaping in the medium density residential environment.*
The application fails to provide sufficient landscaping within the front setback where an area of 5m of deep soil is required. This is instead taken up with planters (see section B, Sheet 5, Rev G) and paved front courtyards.
- *To promote a high standard of urban design and local amenity.*
The application fails to promote a high standard of urban design and local amenity as outlined in points (d) and (j) above.

Note 3 – Clause 6.15 Design Excellence

The proposed development fails to demonstrate compliance with the requirements of section (4) of Clause 6.15 Design excellence. The application was referred to Council's Urban Design Team who advised that the development raised several concerns including:

- Poor building entrance amenities and legibility,
- Waste management and bin room access,
- Basement access and circulation efficiency,
- Amenity of the south facing rooms of dwellings 8-13,
- Distribution, amenity and usability of balconies, and
- Quality and functionality of communal and private open spaces.

Further, to achieve the required level of design excellence expected of such a development, the application would be required to have incorporated improvements that:

- Enhance the public domain through high-quality landscape design,
- Diversify planting selections to promote ecological suitability and biodiversity, and
- Integrate robust sustainability measures to align with the best practices and policy requirements.

A full breakdown of the comments from Urban Design with relation to Clause 6.15 is included within the supplementary information for the report. Overall, the development fails to achieve design excellence in line with this clause.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

No draft environmental planning instruments that would require consideration currently apply to the site.

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

The Canterbury-Bankstown Development Control Plan 2023 (CBDCP 2023) applies to the site, with the following chapters being relevant to this application:

- Chapter 2.2 – Flood Risk Management,
- Chapter 2.3 – Tree Management,
- Chapter 3.1 – Development Engineering Standards,
- Chapter 3.2 – Parking,
- Chapter 3.3 – Waste Management,
- Chapter 3.7 – Landscape, and
- Chapter 5.2 – Residential Accommodation – former Canterbury LGA.

The following sections indicate the assessment of the application against the relevant controls.

Chapter 2.2 – Flood Risk Management

The site is affected by flooding from Cup and Saucer Creek along the rear boundary. Chapter 2.2 Flood Risk Management of the CBDCP 2023 is applicable to the site – particularly Sections 9 and 10 for Flood Risk Management in the former Canterbury LGA. The application was referred to Council's Development Engineer who considered the relevant design plans, the Council issued stormwater systems report (SSR), and the applicants' SSR response (John Romanous & Associated Pty. Ltd – 19/08/2025). No concerns were raised with relation to Flood Risk Management for the development and the design is compliant with the objectives and requirements of Chapter 2.2 of the CBDCP 2023.

Chapter 2.3 – Tree Management

Chapter 2.3 Tree Management of the CBDCP 2023, Control 2.1 states a *"person must not cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy, lop or otherwise remove a substantial part of any prescribed tree defined in clause 2.3 or carry out excavation and earthworks within the tree protection zone except with a permit from Council and subject to any conditions specified in the permit"*.

As outlined in the earlier assessment against chapter 2 in SEPP (Biodiversity and Conservation) 2021, the application seeks the removal of ten prescribed trees to allow for the construction of the proposed development. The proposed removal was supported by an "Arboricultural Impact Assessment" (AIA) and was referred to Council's Tree Management Officers. A permit for removal would be supported by Council's Tree Management Officer in line with the submitted AIA and proposed re-planting schedule of canopy trees as per the submitted Landscape Plan. The proposed development is therefore consistent with Chapter 2.3 of the CBDPC 2023.

Chapter 3.1 – Development Engineering Standards

Chapter 3.1 Development Engineering Standards works in conjunction with the Development Engineering Standards Guide in order to manage civil engineering requirements, the protection of Council infrastructure, vehicular and pedestrian access to development sites, and stormwater management and conveyance amongst other matters. The application was referred to Council's Development Engineer who assessed its compliance against this chapter and guide. Three areas of non-compliance were identified:

- Control 2.1 - The proposed vehicular footway crossing (VFC) exceeded the maximum allowable width of VFCs at the property boundary (6.0m) by proposing a 6.2m crossing.
- Control 2.4 - Adequate sight distances were not provided, with the proposed entrance pergola hindering the provision of clear sight lines for pedestrian safety.
- Control 3.2 - The application seeks to dispose of its stormwater by having a pipe run from the site, directly into the concrete lined canal Cup and Saucer Creek. As the site slopes away from Pheasant Street (the location of Councils existing stormwater disposal network) and towards Cup and Saucer Creek, the proposal represents a reasonable engineering response and is one that can be considered. However, in order to access Cup and Saucer Creek, any pipe conveying stormwater from the site would need to pass through a narrow lot located in between the sites rear boundary and the eastern boundary of Cup and Saucer Creek. The ownership of this piece of land has not been clarified.



Figure 11: Unknown portion of land, hatched in red **Source:** Nearmap

Council is unable to issue any consent for a development application where there is not certainty surrounding the resolution of a matter involving stormwater disposal – an essential service for the function of the development.

As such, the proposed development is not compliant with the requirements of Chapter 3.1 of the CBDCP 2023.

Chapter 3.2 – Parking

Chapter 3.2 Parking applies to the site with relation to the design and layout of the basement carpark. The applicable parking rate (as per control 2.1) for the site is 2 residential spaces per 3-bedroom (or more) dwelling, and 1 visitor space per 5 dwellings. The proposed development allows for 40 spaces within the basement – 36 residential spaces (2 per dwelling), and 4 visitor spaces – 1 being accessible. The number of parking spaces is acceptable and meets the requirements of the control.

However, other areas of non-compliance with this chapter are identified, including:

- Control 3.11 - The basement fails to achieve the minimum required headroom dimension of 2.4m, allowing only 2.3m in several locations, see Section F (Sheet 5 Rev. G).
- Control 3.18 - Adequate sight distances are not provided as mentioned with Chapter 3.2, Control 2.4, CBDCP 2023.
- Control 3.22 - The proposed car wash bay fails to meet the minimum dimension required, providing a 2.5m x 2.7m area as opposed to the required 3.5m x 5.4m area.
- Control 3.32 - The submitted plans fail to include any detail on the location or specifics of the required basement ventilation system
- Control 3.34 - This control requires basement parking to be designed in a manner which will not accentuate the scale or bulk of the building. Due to the topography of the land, which is sloped to the western rear boundary, the basement is also required to be sloped in order to chase the required depth. Despite this, the basement projects considerably over 1m from the existing natural ground level at the rear (up to 1.8m, see Section B, Sheet 5 Rev. G) – accentuating the scale of the building from the perspective of Hughes Park.
- Control 3.40 - The proposed basement development does not optimise opportunities for deep soil on the site.

As such, the proposed development is not compliant with the requirements of Chapter 3.2 of the CBDCP 2023.

Chapter 3.3 – Waste Management

The application was referred to Council's Resource Recovery Team who assessed the proposed development against the controls of Chapter 3.3 Waste Management. Several areas of non-compliance with this chapter were identified, including:

- Control 3.3 - The proposed size of the bin storage area within the basement garage is insufficiently sized to allow all bins to face outwards for ease of access and use, and to account for the appropriate number of bins required to achieve Council's standards.

- Controls 3.3, 3.4, 3.5 and 3.15 - These controls require bin storage areas to be appropriately located behind the front building line, integrated with the building form, and not adversely impact upon the streetscape, building design or amenity of dwellings. The temporary waste collection point is located towards the centre of the site, directly on the street boundary, adjacent to the entry pathway from the street, and directly adjacent to the front courtyard of dwelling 5. This open and uncovered location does not contribute positively to the streetscape and creates significant concerns with relation to odour for unit 5.

It is also noted that the provided Waste Management Plan (dated 4 August 2025) is significantly deficient in the information it provides, and states that across all demolition and construction stages of the development that only 2m³ of excavation material will be created.

As such, the proposed development is not compliant with the requirements of Chapter 3.3 of the CBDP 2023.

Chapter 3.7 – Landscape

Chapter 3.7 Landscape provides requirements in relation to landscape plans and the management of existing vegetation and natural features of the site. The application was referred to Council's Landscape Architect who assessed the submitted landscape plan. Several areas of non-compliance with this chapter were identified, including:

- Control 2.2 – Significant amounts of cut is proposed throughout the site in order to allow for the provision of the basement carpark. Evidence has not been provided showing that attempts to minimise the scale of proposed earthworks have been made.
- Control 2.3 – To the rear of the site is an existing large sandstone rocky outcrop. The submitted landscape plan fails to provide sufficient detail on the exact works proposed within the area, however the planting schedule with trees and shrubs in this space would suggest that the rocky outcrops will be entirely removed or destroyed, failing to take advantage of the site characteristics.
- Control 2.5 – The required deep soil planting within the required front setback landscaping for dwellings 1-7 is limited due to the provision of the proposed front courtyards and raised planters which are not connected to deep soil (see section B, sheet 5, rev g).

Further, Council's Landscape Architect presented concerns with relation to the extensive use of artificial turf throughout the private open space areas, which neither aid in improving sustainability outcomes, nor reduce heat island effects. As such, the proposed development is not compliant with the requirements of Chapter 3.7 of the CBDP 2023.

Chapter 5.2 – Residential Accommodation – Former Canterbury LGA

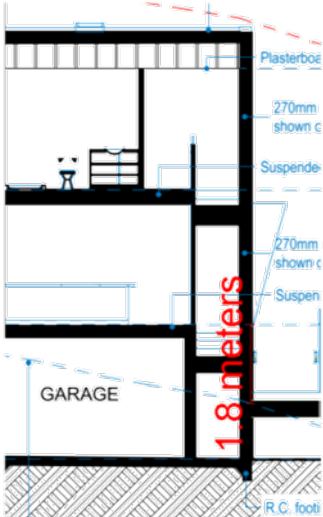
The assessment of the following chapter is presented within the below table.

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
4.1 (C1) Site planning	Multi dwelling housing and attached dwellings must have a street frontage.	The proposal has a frontage to Pheasant Street, Canterbury.	Yes
4.1 (C2) Site planning	The minimum primary street frontage width for multi dwelling housing and attached dwellings is: (e) 20m for development along any local road.	48.76m frontage to Pheasant Street.	Yes
4.2 (C1) Isolated sites	Development on land within Zone R3 Medium Density Residential or Zone R4 High Density Residential is not to result in a site adjoining such land having an area of less than 1,000m ² or a width of less than 20 metres at the front building line for the purpose of multi dwelling housing.	Located within the R3 Low Density Residential Zone. The consolidation of the 4 lots would not result in the adjoining lots being isolated, or unable to consolidate and to achieve a site area of 1,000m ² or a width of 20m.	Yes
4.3 (C1) Private open space	Attached Dwellings and Multi Dwelling Housing must provide 40m ² of private open space per dwelling.	For the purpose of this calculation, stairs and raised garden planters have not been considered as usable private open space. Areas with a minimum dimension of <4.0m are also not considered, but have been included for comparison. Summary: Non-compliant dwellings – 1-7 and 14 Compliant dwellings – 8-13 and 15-18 Dwelling 1 – No compliant POS, however, 31.2 m ² with <4m areas. Dwelling 2 – No compliant POS, however, 30.7 m ² with <4m areas. Dwelling 3 – 21 m ² compliant, however 34.2 m ² with <4m areas. Dwelling 4 – 24.3 m ² compliant, 37.5 m ² with <4m areas. Dwelling 5 – 22.1 m ² compliant, 34.9 m ² with <4m areas.	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
		Dwelling 6 – 25.6m² compliant, 38.7 m² with <4m areas. Dwelling 7 – 39.9 m² compliant, 53.1 m² with <4m areas. Dwelling 8 – 41.3 m². Dwelling 9 – 41.3 m². Dwelling 10 – 41.3 m². Dwelling 11 – 41.3m². Dwelling 12 – 41.3 m². Dwelling 13 – 41.7 m²+ extra 32.6m² with <4m areas. Dwelling 14 – 36.6 m² compliant, 59.8 m² with <4m areas. Dwelling 15 – 45.3 m² compliant, 68.4 m² with <4m areas. Dwelling 16 – 41.2 m² compliant, 64.2m² with <4m areas. Dwelling 17 – 44.8 m² compliant, 67.8m² with <4m areas. Dwelling 18 – 57.1 m² compliant, 98m² with <4m areas.	
4.3 (C2) Private open space	Private open space must include an area 2.5m by 2.5m suitable for outdoor dining facilities.	Each dwelling is provided with an area 2.5m by 2.5m suitable for outdoor dining.	Yes
4.3 (C3) Private open space	Private open space must be located adjacent to the main living areas, such as a living room, dining room or kitchen.	Each dwellings' POS is located adjacent to the main living area.	Yes
4.3 (C4) Private open space	The principal area of open space for each dwelling may comprise a combination of privacy-screens, sun-shading devices and landscaped areas.	Areas of landscaping considered towards the POS calculation included planting along the boundaries. However, this was not considered for the raised planter boxes of dwellings 1-7, where they are closer in design to a retaining wall.	No
4.3 (C5) Private open space	Be designed to prevent direct overlooking from a public space, communal place or from neighbouring buildings.	The proposed design of private open space does not prevent overlooking from communal areas and neighbouring dwellings within the development site itself.	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
4.3 (C6) Private open space	Be designed to accommodate both recreation and service activities.	Insufficient information is provided on the location of clothes drying areas, and rainwater tank locations to ensure that service activities do not impinge upon the areas designed for recreation.	No
4.3 (C7) Private open space	Include a suitably screened area for clothes drying facilities.	Specific clothes drying areas for each dwelling have not been indicated on the plans.	No
4.3 (C8) Private open space	Be oriented to provide maximum exposure to midwinter daylight whilst optimising privacy.	The private open space has been appropriately oriented.	Yes
4.3 (C11) Private open space	Private open space at ground level must be a minimum of 4m in any direction for attached dwellings and multi dwelling housing.	Not achieved for Dwellings 1, 2, 3, 4, 5, 6, 7 and 14.	No
4.3 (C12) Private open space	Private open space at ground level shall have a maximum gradient of 1:50.	Proposed spot levels show no gradient for POS, each dwelling to be level.	Yes
4.4 (C1) Layout and orientation	Orientate development to maximise solar access and natural lighting, without unduly increasing the building's heat load.	Whilst dwellings 8-18 are well oriented to maximise solar access and natural lighting, the layout of dwellings 1-7 make this more difficult.	No
4.4 (C2) Layout and orientation	Site the development to avoid casting shadows onto neighbouring dwelling's primary living area, private open space and solar cells.	As a result of the location of dwellings 14-18, the POS of the adjacent property, 24 Pheasant Street, is significantly overshadowed. The height of the dwelling 7 also impacts the solar cells of 24 Pheasant Street, and the application does not address any efforts to avoid such overshadowing.	No
4.4 (C3) Layout and orientation	Coordinate design for natural ventilation with passive solar design techniques.	Each property allows for through ventilation on the ground floor. Passive solar access is more difficult for dwellings 1-7, as the skylights will only benefit the attic space.	No
4.4 (C4) Layout and orientation	Site new development and private open space to avoid existing shadows cast from nearby buildings.	Insufficient information has been provided, as the submitted shadow diagrams	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
		fail to include the shadows created by existing dwellings.	
4.4 (C5) Layout and orientation	Site a building to take maximum benefit from cross-breezes and prevailing winds.	Each property allows for through ventilation on the ground floor, and all dwellings should be able to benefit from cross breezes and prevailing winds.	Yes
4.4 (C6) Layout and orientation	Do not compromise the creation of casual surveillance of the street, communal space and parking areas, through the required orientation.	Casual surveillance is not compromised, as the design ensures there is plenty of visibility to the street and communal spaces.	Yes
4.5 (C1) Height	Development for the purposes of multi dwelling housing must not exceed the following numerical requirements: (a) Maximum height of one storey where the building is located more than 20m (in addition to the required front setback) or a distance of 65% of the total length of the allotment, as measured from the front boundary (whichever is the greater). (b) Maximum height of two storeys except in locations stated in (a) above. (c) <u>Two (2) storey dwellings may be permitted at the rear of an allotment in R3 zones only where that part of the site faces an industrial development, a road, a railway line or an area of open space.</u> (d) Maximum external wall height of 3.8m where the one storey restriction applies. (e) Maximum external wall height of 7m where two storeys are permitted and the height of buildings under the LEP is 8.5m.	a) N/A – see (c), the site adjoins an open space. b) Several dwellings to reach three storeys as a result of basement projection of more than 1m above the existing natural ground level at several points throughout the site. See Sections B and F (Sheet 5, rev. G). c) The rear of the site adjoins Cup and Saucer Creek/Hughes Park – an area of open space. However, as per the above, the rear properties are indicated as reaching three stories. d) N/A. e) Wall height and building height which reaches 8.8-8.9m (See South Elevation Sheet 4 and Section F Sheet 5, Rev. G).	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
4.5 (C3) Height	Any part of a basement or sub-floor area that projects greater than 1m above ground level comprises a storey.	The proposed basement level extends more than 1m above NGL. (Refer to Sections A, B and F, Sheet 5 Rev. G) 	No
4.5 (C4) Height	Attics and mezzanine floors do not comprise a storey.	Attics proposed for Units 1-7.	Yes
4.5 (C8) Height	The provision of basement parking for multi dwelling housing in the R3 Medium Residential Zone of the LEP may be considered where site constraints warrant and it can be demonstrated that there will be no adverse impacts on amenity, streetscape or public domain.	The application does not identify a site constraint to warrant (or necessitate) a basement and has failed to appropriately identify how there will be no adverse impacts on amenity, streetscape or the public domain.	No (See Note 1 at the end of this assessment)
4.5 (C9) Height	Basement and sub-floor parking is only suitable where compliance with Chapter 3.2 Parking of this DCP can be demonstrated.	Some areas of non-compliance – see Chapter 3.2 assessment.	No
4.5 (C10) Height	Any part of a basement or sub-floor area that projects greater than 1m above ground level comprises a storey.	The proposed basement level extends more than 1m above NGL. (Refer to Sections A, B and F, Sheet 5 Rev. G) .	No
4.6 (C2) Setbacks	Multi dwelling housing and attached dwelling development must comply with the minimum setbacks as follows: (a) A minimum setback of 6m from the front boundary.	(a) Minimum setback of 3.7m to the front entry courtyards (in line with the CBLEP 2023 setback definition). Nil setback noted to the temporary.	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
	(b) A minimum setback of 3m from the rear boundary where the building the subject of the setback, is single storey. (c) Minimum 3m or 5m width of deep soil along the front and rear boundaries based on setback requirements. (d) On corner lots a minimum of 5.5m from the longer street frontage.	waste collection area and covered entry way. (b) NA – not a single storey. (c) 5m of deep soil is not achieved along the front and rear setbacks. The planter boxes with no connection to the soil below and the entry courtyards inhibit this. To the rear, points of encroachment occur with the pool area and the outdoor gym (d) NA - The proposal is not located on a corner lot.	
4.6 (C3) Setbacks	Multi dwelling housing development must comply with the following side setbacks: (a) A minimum of setback of 1.5m from the side boundaries for dwellings that would be fronting the street or front setback. (b) A minimum setback of 2.5m from the side boundaries for building that does not front the street or front setback. (c) A minimum of 1m width of deep soil along side boundaries.	(a) A minimum 1.5m side setback is provided to the dwellings fronting Pheasant Street. (b) A minimum 2.5m rear setback is provided to the dwellings that do not front the street or front setback. (c) 1.0m deep soil is provided along the side boundaries.	Yes
4.6 (C7) Setbacks	External walls that enclose rooms, storage areas and/or garages are not to encroach beyond the specified setbacks.	Noted. No such encroachments within the specified setbacks.	Yes
4.6 (C8) Setbacks	Minimum setback of 1m from any side or rear boundary for swimming pools and associated terraces. Landscaping shall be provided in the setback area to screen the pool from neighbours.	A minimum 1m setback is provided with appropriate screening.	Yes
4.6 (C9) Setbacks	Swimming pools must not be located within any front setback.	Swimming pool is located behind the front building line and at the rear of the proposed development.	Yes

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
4.6 (C14) Setbacks	The following minor building elements may project up to 1m into the minimum side setback area: (a) Roof eaves, awnings, pergolas and patios; (b) Stair or ramp access to the ground floor; (c) Rainwater tanks; and (d) Terraces above basement parking that are no higher than 1m above ground level (except dwelling houses, semi-detached dwellings and dual occupancy).	The patios of units 14-18 are acceptable under this control.	Yes
4.7 (C1) Building depths	Building depth must not exceed a maximum of 25m.	Dwellings 8-13 and 14-18 extend beyond 25m in depth. No break in the building proposed.	No
4.8 (C1) Building articulation	Multi dwelling housing must provide a minimum 5m separation between buildings that are on one site (measured from the outer faces of the exterior wall of each building).	Over 5m separation achieved.	Yes
4.8 (C2) Building articulation	In the separation area: (a) Deep soil or private open spaces are permitted as well as communal open space. (b) Driveways, walkways and building lobbies are permitted (driveways should have planted verges at least 1m wide comprising canopy trees, along both sides). (c) Garages, carports or outdoor parking are not permitted.	The proposal seeks the inclusion of POS, landscaping and walkways in the separation area.	Yes
4.9 (C4) Building design	All dwellings must contain one kitchen and laundry facility.	The kitchen of each dwelling is located on the ground floor and laundry within the basement.	Yes
4.9 (C7) Building design	Entries to residential buildings must be clearly identifiable	All entries clearly identifiable.	Yes

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
4.9 (C8) Building design	A minimum of one habitable room must be oriented towards the street to promote positive social interaction and community safety.	Dwellings 1-7 orient a minimum of one habitable room to the street.	Yes
4.9 (C9) Building design	Sight lines to the street from habitable rooms or entrances must not be obscured by ancillary structures.	Whilst dwellings 1-4 and 6-7 are largely unobscured by ancillary structures, dwelling 5 has their view to the street obscured by the temporary bin storage area.	No
4.9 (C10) Building design	In multiple unit development, face at least one habitable room or private open space area towards a communal space, internal driveway or pedestrian way.	Each dwelling is appropriately oriented, with a habitable room facing the street or the communal space.	Yes
4.9 (C12) Building design	Landscaping of street setbacks should not include continuous visually-solid hedges that would block sight lines from dwellings or conceal intruders.	Potentially visually solid hedging proposed for dwellings 1-4 and 6-7, as per the landscape plans.	No
4.9 (C13) Building design	Screen walls around private open spaces shall not be taller than 1.2m, although screens with 50% transparency may be up to 1.8m in height.	The landscape plan refers to 1.5m high courtyard fence detail, but does not provide the drawing.	No
4.9 (C14) Building design	The combined width of front fencing is not to occupy more than 50% of the frontage of the site.	The front fences equate 71% of the site frontage.	No
4.9 (C15) Building design	Dwellings that face the street must have private entrances direct from the street footpath.	Dwellings 1-7 each have a private entrance direct from the footpath.	Yes
4.9 (C17) Building design	Use non-reflective materials, do not randomly mix light and dark coloured bricks, and treat publicly accessible wall surfaces with anti-graffiti coating.	The proposed materials and finishes are not appropriate as per Council's Urban Design referral.	No
4.9 (C18) Building design	Facade design should reflect the orientation of the site using elements such as sun shading devices, light shelves and bay windows.	Appropriate sun shading devices are proposed.	Yes
4.9 (C22) Building design	Avoid long flat walls along street frontages - stagger the wall alignment with a step	Wall alignment has been staggered along the street frontage.	Yes

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
	(not a fin wall of other protruding feature) of at least 0.5m for residential buildings.		
4.9 (C23) Building design	Incorporate contrasting elements in the facade - use a harmonious range of high quality materials, finishes and detailing.	Whilst contrasting elements are proposed, Council's Urban Design Team cites the provision of too many mixed and visually inconsistent materials.	Yes
4.9 (C25) Building design	The top storey of any two-storey dwelling should be designed as a series of connected pavilion elements.	Noted and designed as such.	Yes
4.9 (C26) Building design	Facades that exceed 25m in length shall be indented to create the appearance of multiple pavilion elements.	Some facades proposed which exceed 25m in length, are not indented.	No
4.10 (C1) Roof design and features	Use a simple pitched roof that accentuates the shape of exterior walls, and minimises bulk and scale.	Gable roofs for dwellings 1-7 – create concern with bulk and scale, particularly with the significant wall height exceedance.	No
4.10 (C3) Roof design and features	Roof pitches and design are to be compatible and sympathetic to nearby buildings.	Pitch is not incompatible, however the design and resultant wall height make them unsympathetic to nearby buildings.	No
4.10 (C5) Roof design and features	Use minor gables only to emphasise rooms or balconies that project from the body of a building.	Significant gable ends – dwellings 1-7 are all presented with gable roofs.	No
4.10 (C7) Roof design and features	Pitched roofs should not exceed a pitch of 30 degrees.	20-degree maximum roof pitch on site.	Yes
4.11 (C1) Dwelling layout and mix	Design interiors to be capable of accommodating the range of furniture that is typical for the purpose of each room.	The internal GF design of dwellings 1-7 does not support a range of furniture for each room proposed, in that the dining area is in competition with the stairs and entry.	No
4.11 (C2) Dwelling layout and mix	The primary living area and principal bedroom must have a minimum width of 3.5m.	Units 1-7: Comply Living: 3.5m x 4.6m Bedroom: 3.5m x 3.5m Units 8-13: Fail to comply Living: 3.0m x 3.7m Bedroom: 3.5m x 3.6m Units 14-18: Fail to comply Living: 3.1m x 5.1m	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
		Bedroom: 3.5 x 3.5	
4.11 (C3) Dwelling layout and mix	Secondary bedrooms must have a minimum width of 3m.	Units 1-7: Comply Bedroom 2: 3.0 x 3.0 Bedroom 3: 3.0 x 3.0 Units 8-13: Comply Bedroom 1: 3.0 x 3.1 Bedroom 2: 3.0 x 3.5 Units 14-18: Comply Bedroom 2: 3.0 x 3.0 Bedroom 3: 3.0 x 3.0.	Yes
4.11 (C4) Dwelling layout and mix	Provide general storage in addition to bedroom wardrobes and kitchen cupboards.	General storage provided for each of the units.	Yes
4.11 (C5) Dwelling layout and mix	The minimum amount of storage required is 6m ³ for one bedroom dwellings 8m ³ for two bedroom dwellings, or 10m ³ for dwellings with three or more bedrooms.	All units are indicated as meeting and exceeding the amount of required storage space.	Yes
4.11 (C6) Dwelling layout and mix	Stairwells should be designed to receive natural daylight and ventilation.	All stairs have an adjacent windows.	Yes
4.12 (C1) Amenity	<u>Solar Access to Proposed Development</u> Where site orientation permits at least primary living areas of dwellings must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June.	The submitted shadow diagrams are inconsistent and incomplete due to the lack of existing shadows shown on the plans – and additional shadows which cannot be accounted for (see the 4pm June 21 shadows, Sheet 6, Rev G). However, an assessment of the provided plans show that the proposed development fails to comply with the requirements for dwellings 2 and 4. Dwelling 1: 5 hours Dwelling 2: 2 hours Dwelling 3: 3 hours Dwelling 4: 2 hours Dwelling 5: 3 hours Dwelling 6: 3 hours Dwelling 7: 3 hours Dwelling 8: 7 hours Dwelling 9: 7 hours Dwelling 10: 7 hours	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
		Dwelling 11: 7 hours Dwelling 12: 7 hours Dwelling 13: 7 hours Dwelling 14: 6 hours Dwelling 15: 6 hours Dwelling 16: 7 hours Dwelling 17: 7 hours Dwelling 18: 7 hours.	
4.12 (C2) Amenity	Principle areas of private open space must receive a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June to at least 50% of the open space surface area.	Whilst the solar access diagrams would suggest the site is 'mostly' compliant with providing solar access, it fails to achieve it to at least 50% of the POS. Concern also exists as to the accuracy of the shadow diagrams, and the lack of existing shadows from adjoining properties is noted. Dwelling 1: 7 hours Dwelling 2: 3 hours Dwelling 3: 1 hours Dwelling 4: 1 hours Dwelling 5: 0 hours Dwelling 6: 3 hours Dwelling 7: 3 hours Dwelling 8: 8 hours Dwelling 9: 9 hours Dwelling 10: 9 hours Dwelling 11: 9 hours Dwelling 12: 9 hours Dwelling 13: 9 hours Dwelling 14: 0 hours Dwelling 15: 6 hours Dwelling 16: 5 hours Dwelling 17: 8 hours Dwelling 18: 7 hours.	No
4.12 (C3) Amenity	Dwellings must comply with the following: (a) At least one living room window and at least 50% or 35m ² with minimum dimension of 2.5m (whichever is the lesser), of ground level private open space. (b) Receives a minimum of 3 hours sunlight between 8:00 am and 4:00 pm on 21 June	a) Not achieved. b) Not achieved. c) Not indicated on the shadow diagrams.	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
	(c) Where existing overshadowing by buildings and fences is already greater than this, sunlight is not to be reduced by more than 20%.		
4.12 (C4) Amenity	Proposed development must retain a minimum of 3 hours of sunlight between 8.00am and 4.00pm on 21 June for existing primary living areas and to 50% of the principal private open space.	The submitted shadow diagrams fail to include the full locations of boundaries and dwelling of 24 Pheasant Street. However, based on an aerial overlay of the adjoining site on to the shadow diagrams, it is evident that the POS will be heavily overshadowed throughout the day. The approximate calculations ranged from 72% to 100%. 24 Pheasant Street does not appear to have living room windows which face north.	No
4.12 (C5) Amenity	If a neighbouring dwelling currently receives less than 3 hours of sunlight, then the proposed development must not reduce the existing level of solar access to that property.	Existing shadows are not shown, however existing overshadowing to such an extent is unlikely.	NA
4.12 (C6) Amenity	Sunlight to solar hot water or photovoltaic systems on adjoining properties must comply with the following: (a) Systems must receive at least 3 hours of direct sunlight between 8.00am and 4.00pm on 21 June. (b) If a system currently receives less than 3 hours sunlight, then the proposed development must not reduce the existing level of sunlight.	Insufficient information has been provided as to the total form of 24 Pheasant Street, including the location of their photovoltaic panels. Based on an approximate overlay of the site, significant overshadowing to the panels is anticipated, but cannot be calculated accurately in line with this condition without the adjoining property being shown on the plans.	No
4.12 (C7) Amenity	Clothes drying areas on adjoining residential properties must receive a minimum of 3 hours of sunlight on 21 June.	Adjoining clothes drying areas are not shown on plans.	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
4.13 (C1) Visual privacy	Locate and orient new development to maximise visual privacy between buildings, on and adjacent to the site.	Whilst the proposed side boundary setbacks and location of POS and living areas is mostly acceptable, concern exists with the location off the bedroom 03 balconies of dwellings 8-13. These are likely to directly look out to the neighbours POS and pool area. Concern also exists for the overlooking into the POS of dwelling 14 from the raised common area adjacent to the lift.	No
4.13 (C2) Visual privacy	Minimise direct overlooking of rooms and private open space through the following: (a) Provide adequate building separation, and rear and side setbacks; and (b) Orient living room windows and private open space towards the street and/or rear of the lot to avoid direct overlooking between neighbouring residential properties.	Adequate building separation provided to the side and rear. Living room windows and private open spaces are appropriately located.	Yes
4.13 (C3) Visual privacy	If living room windows or private open spaces would directly overlook a neighbouring dwelling: (a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or (b) Use windows that are less than 600mm wide or have a minimum sill height of at least 1.5m above the associated floor level.	No concern anticipated by overlooking from living room windows or private open spaces.	Yes
4.13 (C4) Visual privacy	If living room windows or private open spaces would directly overlook a neighbouring dwelling: (a) Provide effective screening with louvres, shutters, blinds or pergolas; and/or	No concern anticipated by overlooking from living room windows or private open spaces.	Yes

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
	(b) Use windows that are less than 600mm wide or have a minimum sill height of at least 1.5m above the associated floor level.		
4.14 (C1) Acoustic privacy	Protect sensitive rooms, such as bedrooms, from likely sources of noise such as major roads and neighbouring living areas.	Sensitive rooms appropriately located. The proposal does not front a major road.	Yes
4.14 (C2) Acoustic privacy	Bedroom windows in new dwellings that would be located at or close to ground level are to be raised above, or screened from, any shared pedestrian pathway.	Screening to bedroom 01 of dwellings 8-13 should be provided.	No
4.16 (C7) Building services	Facilities should not be visually obtrusive and should not detract from soft landscaped areas that are located within the required setbacks or building separations.	No information is provided as to the proposed location of AC units, hot water systems and the like. This may potentially have further impacts upon POS.	No
4.16 (C8) Building services	Appliances that are fitted to the exterior of a building, and enclosures for service meters, do not detract from the desired architectural quality of new building, or the desired green character of streetscapes.	No information is provided as to the proposed location of AC units, hot water systems and the like.	No
4.16 (C9) Building services	Unscreened appliances and meters should not be attached to any facade that would be visible from a street or driveway within the site: (a) Screen air conditioning units behind balcony balustrades; (b) Provide screened recesses for water heaters rather than surface mounting them on exterior walls; and (c) Locate meters in service cabinets.	No information is provided as to the proposed location of AC units, hot water systems and the like.	No
4.16 (C12) Building services	Location and design of service areas should include: (a) Screening of clothes drying areas from public	The proposed location of clothes drying areas has not been identified.	No

CHAPTER 5.2 RESIDENTIAL ACCOMMODATION (FORMER CANTERBURY) SECTION 4 – MULTI DWELLING HOUSING AND ATTACHED DWELLINGS			
CONTROL	REQUIREMENT	COMMENT	COMPLY
	and semi-public places; and (b) Space for storage that is screened or integrated with the building design.		

Note 1 – Control 4.5 (C8) – Basements:

Section 4.5 (C8) in Chapter 5.2 of the CBDP 2023 states that multi dwelling housing in the R3 Zone may make provision for basement parking where there is a site constraint to warrant (or necessitate) that basement. In the event that a site is constrained as to warrant a basement, it must be designed so as not to have an adverse impact on amenity, streetscape or public domain.

The application does not identify a site constraint to warrant a basement, and as such is not supported.

Council is aware of the growing interest in the inclusion of basements in low and medium density residential development and has placed on public exhibition an amendment to the DCP that would reword Control 4.5 (C8) to read:

- C8. The provision of basement parking for multi dwelling housing in the R3 Medium Residential Zone must ensure:*
- a) the basement architecturally integrates with the development; and*
 - b) the basement does not extend beyond the perimeter of the floor level immediately above. For the purpose of this clause, the perimeter includes the front porch; and*
 - c) there will be no adverse impacts on the streetscape, public domain, landscaped areas and amenity; and*
 - d) the driveway and associated retaining walls integrate into the overall design of the dwellings and landscaped areas. Large areas of blank, minimally or poorly articulated retaining walls are not acceptable.*

Notwithstanding that the amended control has not been adopted by Council, it has been considered as part of this assessment. The amended control allows for basements in multi dwelling housing developments on all sites, provided that the basements are well integrated and do not result in adverse environmental impacts or poor amenity outcomes.

In the event the DCP were amended to reflect the proposed wording, the proposed basement would fail to comply with subclause (b), as it extends beyond the perimeter of the floor level immediately above, and consequently reduces the amount of landscaped deep soil area provided, as well as the amenity of future occupants.

Further, s4.15(3A)(b) in the *Environmental Planning and Assessment Act 1979* requires Council adopt a flexible approach to considering non-compliances with the provision in its DCP, and reads:

- (3A) *Development control plans* If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—
- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
 - (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
 - (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, standards include performance criteria.

As the provisions regarding basements do not set a standard (i.e.: a performance criteria), the need for a flexible approach is muted. Instead, the flexibility exists with the framework of the CBDP 2023 provision itself, which affords the Applicant liberty (or flexibility) to identify how the site is constrained and how that constraint warrants the introduction of a basement. Based upon that identified constraint, Council can be the gauge on whether basement parking is suitable for the site, or not.

The applicant has failed to identify a site constraint which would warrant a basement, and one has not been identified by Council. The basement would result in adverse impacts to amenity, the streetscape and public domain as explored earlier in this report. As such, the proposed basement carpark cannot be supported.

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

A planning agreement has not been entered into under Section 7.4 of the *Environmental Planning and Assessment Act 1979*, nor has the applicant offered to enter into a draft planning agreement.

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

The proposed development is consistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2021*.

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

The proposed development is likely to result in adverse impacts upon the locality. As detailed in this report, several areas of significant non-compliance are presented – with particular emphasis on the scale and insufficient consideration of earthworks, lack of site constraint to justify the proposed basement garage, lack of clarity surrounding stormwater disposal, overshadowing (both within the site and to adjoining properties), height and storey limit breaches, and lack of acceptable private open space. The consideration of likely impacts of the development is further affected by the lack of sufficient information, resulting in an inability to demonstrate the true extent of the impacts upon the locality. As such, it is considered that the likely impacts of the proposed development on the surrounding locality are unacceptable.

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

The site is unsuitable for the development. The development would likely result in the excessive and insufficiently accounted excavation of the site, adverse amenity impacts to solar access – both on site and to adjoining properties, adverse impacts to privacy and available private open space, and a significant reduction of the existing natural features of the site.

Submissions [Section 4.15(1)(d)]

The application was first advertised for a period of 21 days starting on 10 September 2025. 38 submissions were received, with 34 being unique. As noted within the “Site and Application History” section of this report, a readvertising period commenced for a further 21 days on 12 November 2025. This section will detail the submissions and Councils response to the 34 unique submissions received during the first advertising period, with any additional submissions to be addressed in a separate supplementary note.

Submission: *Increased traffic impacts*

Concerns included the lack of existing street parking, existing congestion as a result of the single access through Glenore Road, traffic increases during the construction period and the reliability of the submitted Traffic impact assessment. Further submissions mentioned issues with existing illegal parking in the street, poor existing road quality, the street being too narrow and use of garages for storage/games rooms rather than parking.

Comment: The proposed development was assessed against Chapter 3.2 Parking of the CBDP 2023 and was assessed by Council’s Traffic Officer. The development provides sufficient parking onsite for both residents and visitors, with 40 spaces available. Council’s Traffic Officer confirmed the reliability of the Traffic and Parking Assessment, and the sources used in the report. Council’s Traffic Officer was satisfied that the impacts of the development on Traffic within the street were acceptable.

The other matters raised such as illegal parking and improper use of garages are compliance matters, road quality is a maintenance

matter – both of which can be reported to Council's Customer Service Team for action, and the width of the street is an existing situation which does not have a bearing on the proposed type of development. As such, the proposed measure to manage parking onsite and the impacts to existing traffic in the street are considered to be appropriately mitigated and managed.

Submission: *Disruption and impacts to amenity*

Concerns included uncertainty on construction hours, how construction traffic would be managed, measures to avoid dust, noise and vibration, potential damage to adjoining properties, the fact that plant locations have not been identified, and the increased noise from additional residents.

Comment: Several of the matters raised with relation to disruption during construction are ones which would be managed through condition – such as restrictions to construction hours and days, the necessary provision of a Construction Traffic Management Plan, dilapidation reports and sediment and erosion control measures.

Concerns related to additional residents using the pool area or common spaces is not one which is a material planning matter and is rather served by the consideration of where these spaces have been proposed – of which the pool and common areas are considered appropriately located at the rear of the site overlooking public space.

However, concern with relation to noise and vibration – particularly as a result of the basement excavation through the sandstone bedrock – remains. Insufficient information has been provided by the applicant in relation to the management of this issue. The proposal is considered non-compliant with Council's requirements in this regard.

Submission: *Tree and vegetation removal*

Concerns related to the proposed removal of the 10 trees, reduction in the character, canopy cover and amenity of the area, proposed tree species for replanting, and reduction of significant amounts of deep soil for artificial turf.

Comment: The proposed tree removals were assessed by Council's Tree Management Officer and was supported by the Arboricultural Impact Assessment. Council's Tree Officer was satisfied in the provided report and justifications for tree removal, subject to necessary conditions surrounding tree replanting around the site, and particularly the provision of major canopy trees focused towards the rear of the site.

While the removal of existing site trees is acceptable, the development landscaping response is not. The development is deficient in areas of deep soil to support canopy tree's and is over reliant on artificial turf.

- Submission:** *Overshadowing*
Concerns related to the overshadowing of private open spaces and adjoining properties generally.
- Comment:** The proposed development would result in the significant overshadowing of the private open space and solar panels of the adjoining property. Whilst it is accepted that a certain degree of overshadowing does typically occur for neighbours on southern adjoining properties, in this instance the degree of non-compliance is not supported by Council.
- Submission:** *Privacy impacts*
Concerns related to the loss of privacy within adjoining private open space and living areas.
- Comment:** The proposed development is predominantly compliant with regards to overlooking into adjoining properties. It is noted that no opportunities for overlooking are possible from dwellings 1 or 7. Further, Council cannot enforce screening on bedroom windows. The development does have the potential to overlooking of the private open space on adjoining properties from the balconies of dwellings 8-13, all of which are accessed off of a bedroom, and not a living area. The Canterbury-Bankstown Development Control Plan 2023 views privacy impacts from bedrooms as less of a concern as opposed to high traffic areas such as living rooms.
- Submission:** *Out of character with the street*
Concerns that the proposed development would fundamentally change the character of the low-density neighbourhood.
- Comment:** The subject site is zoned R3 Medium Density Residential, within which multi-dwelling housing is a permissible use. A multi-dwelling housing development is already present within the street, at 30-32 Pheasant Street at the end of the cul-de-sac. Whilst the type of development is not one that is common within the street at present, it does form part of the types of development which are envisioned for the area. In this instance, the overdevelopment of the site is as a result of the proposed form rather than the type of development.
- Submission:** *Waste management*
Concerns relating the location of the temporary waste location at the front of the site, smells and vermin, vague and inadequate information within the WMP.
- Comment:** The proposed location of the temporary waste area at the front of the site is one that is not supported due to concerns with the setback, location with relation to dwelling 5 and its design. With relation to the concerns of vermin, smells and general cleanliness, conditions with relation to management of such matters are imposed on consents for such developments and must be designed in a manner to manage these concerns.

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

The proposed development contravenes the public interest. It does not respond appropriately to provisions set out in the applicable environmental planning instruments, Canterbury-Bankstown Local Environmental Plan 2023, nor the Canterbury-Bankstown Development Control Plan 2023. This is further emphasised by the significant public response in opposition to the development.

CONCLUSION

Council has received an application seeking approval to develop four lots at 16 – 22 Pheasant Street, Canterbury as multi-dwelling housing over basement parking. While permissible in the R3 Medium Density Zone, the development departs from many applicable controls.

The application lacks detail in terms of how the development satisfies Clause 6.2 in the LEP which aims to avoid and minimise the impacts of earthworks, among other non-compliances with the Canterbury-Bankstown Local Environmental Plan 2023. Further, the development contains several departures from the controls in the Canterbury-Bankstown Development Control Plan 2023 including built form (including basements), private open space, Canterbury-Bankstown Development Control Plan 2023, solar access, landscaping and waste management.

Beyond these departures the development contains two threshold issues: contamination and stormwater disposal. The application identifies the potential contamination of the site but has not provided adequate information to satisfy the requirement in SEPP (Resilience and Hazards) 2021 as to the site's suitability for the development. Secondly, the application seeks to dispose of this stormwater over a piece of land of which its owner has not granted consent to form part of this application, and lacks clarity regarding the proposed management of this issue.

Whilst the development typology generally is supported in this location, the manner in which it has been proposed with this specific application presents an overdevelopment of the site. In this regard, the application is not worthy of support.

RECCOMENDATION

It is recommended that development application DA-929/2025 be **REFUSED** for the reasons set out in Attachment 2.

Reasons for Refusal

Canterbury-Bankstown Local Planning Panel, as consent authority, and under Section 4.16 of the *Environmental Planning and Assessment Act 1979*, gives notice under Section 4.18 of the Act, that the Development Application, described above, was refused for the following reasons:

1. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, is not consistent with State Environmental Planning Policy (Resilience and Hazards) 2021 with respect to Chapter 4, Section 4.6 'Remediation of Land'. The Preliminary Site Investigation found sufficient evidence, uncertainty and/or suspicion of on-site contamination to require further investigation – by way of a Detailed Site Investigation, which was not provided. As such, the application does not satisfy the relevant provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021.
2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, is not consistent with State Environmental Planning Policy (Sustainable Buildings) 2022 with respect to BASIX commitments. The submitted application included several areas of inconsistency and omissions with regard to the commitments as laid out in the BASIX certificate. As such, the application does not satisfy the relevant provisions of the State Environmental Planning Policy (Sustainable Buildings) 2022.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 1.2 'Aims of Plan' of the Canterbury-Bankstown Local Environmental Plan 2023 relating to aims (a), (d) and (j). The application fails to manage growth in a way that contributes to the sustainability of the area, fails to provide development opportunities that are compatible with the desired future character and amenity of the area, and fails to achieve good urban design.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy the specific objectives contained in Clause 2.3 'Zone objectives and Land Use Table' of the Canterbury-Bankstown Local Environmental Plan 2023. The application does not achieve suitable landscaping within the medium density residential environment, or does it promote a high standard of local amenity.
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 2.7 'Demolition' of the Canterbury-Bankstown Local Environmental Plan 2023 relating to the demolition plan. No clear or complete dedicated demolition plan has been submitted as part of the application package.
6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 4.3 'Height of buildings' of the Canterbury-Bankstown Local

Environmental Plan 2023 relating to the overall building height. The proposed development exceeds the maximum allowable building height for the site of 8.5m.

7. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 4.4 'Floor Space Ratio' (FSR) of the Canterbury-Bankstown Local Environmental Plan 2023 relating to included gross floor area (GFA). The submitted application suggests compliance with the maximum FSR of 0.5:1, however insufficient information is provided to determine the extent of "basement" storage which is to be considered towards GFA, and whether it will exceed the allowable FSR of the site.
8. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 4.6 'Exceptions to development standards' of the Canterbury-Bankstown Local Environmental Plan 2023 relating to height and FSR. The development application was not accompanied by a written request for the proposed variation to Clause 4.3 for height, nor (as potentially required) Clause 4.4 for FSR.
9. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 6.2 'Earthworks' of the Canterbury-Bankstown Local Environmental Plan 2023 relating to the basement and site excavation. The application fails to adequately address the requirements of section (3) of the clause.
10. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 6.3 'Stormwater Management and water sensitive urban design' of the Canterbury-Bankstown Local Environmental Plan 2023 relating to the proposed stormwater disposal. The application proposes to manage stormwater from the site by running a pipe across a piece of unknown land, and into Cup and Saucer Creek. Certainty surrounding the owner's consent and management of this matter has not been provided.
11. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 6.9 'Essential services' of the Canterbury-Bankstown Local Environmental Plan 2023 relating to stormwater and waste. The proposed stormwater system connection and temporary waste storage areas are not supported.
12. Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 6.15 Design excellence of the Canterbury-Bankstown Local Environmental Plan 2023. This is in relation to the requirements of Section (4) which have largely not been achieved.

13. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the provisions of Chapter 3.1 'Development Engineering Standards' of the Canterbury-Bankstown Development Control Plan 2023, including:
 - a. Control 2.1 - Exceeding maximum vehicular footway crossing widths.
 - b. Control 2.4 - Adequate sight distances not provided.
 - c. Control 3.2 - Unacceptable stormwater disposal proposal.
14. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the provisions of Chapter 3.2 'Parking' of the Canterbury-Bankstown Development Control Plan 2023, including:
 - a. Control 3.11 - Failure to achieve minimum clear headroom dimension in the basement.
 - b. Control 3.18 - Adequate sight distances not provided.
 - c. Control 3.22 - Failure to achieve minimum carwash bay dimension.
 - d. Control 3.32 - Failure to provide detail on basement ventilation.
 - e. Control 3.34 - Failure to be designed in a manner which will not accentuate bulk and scale of the building.
 - f. Control 3.40 - Failure to optimise deep soil opportunities on site.
15. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the provisions of Chapter 3.3 'Waste Management' of the Canterbury-Bankstown Development Control Plan 2023, including:
 - a. Controls 3.3 and 3.15 - Failure to locate an appropriately sized temporary bin storage area behind the building line
 - b. Controls 3.4, 3.5 and 3.15 - The temporary bin storage areas adversely impact the streetscape, building design and amenity of dwellings.
16. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the provisions of Chapter 3.7 'Landscape' of the Canterbury-Bankstown Development Control Plan 2023, including:
 - a. Control 2.2 - Failure to minimise earthworks.
 - b. Control 2.3 - Failure to design landscaping in a manner that takes advantage of existing site characteristics.
 - c. Control 2.5 - Failure to provide appropriate deep soil zones within the front setback.
17. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as it does not comply with the provisions of Chapter 5.2 'Residential Accommodation – Former Canterbury LGA' of the Canterbury-Bankstown Development Control Plan 2023, including:
 - a. Controls 4.3 (C1 and C11) - Failure to provide sufficient private open space to all dwellings with a minimum dimension of 4m throughout.
 - b. Controls 4.3 (C4 and C5) - Failure to provide sufficient privacy screening and address overlooking concerns.

- c. Controls 4.3 (C6 and C7) - Failure to provide detail on locations of services.
 - d. Control 4.4 (C1) - Failure to appropriately orientate development to maximise solar access for dwellings 1-7.
 - e. Control 4.4 (C2) - Failure to avoid overshadowing of adjoining properties.
 - f. Control 4.4 (C3) - Failure to promote passive solar access for dwellings 1-7.
 - g. Control 4.4 (C4) - Failure to indicate the locations of existing shadows to determine compliance with the control.
 - h. Control 4.5 (C1) - Failure to maintain two-storey built form across the site, and failure to comply with the 7m wall height maximum.
 - i. Controls 4.5 (C3 and C10) - A basement projection of greater than 1m above the natural ground level.
 - j. Control 4.5 (C8) - Failure to identify site constraints to warrant basement parking.
 - k. Control 4.5 (C9) - Failure to demonstrate the compliance of the basement with Chapter 3.2 'Parking'.
 - l. Control 4.6 (C2) - Failure to achieve the minimum front setback, and to provide front and rear setback deep soil areas.
 - m. Control 4.7 (C1) - Exceeding maximum building depths.
 - n. Control 4.9 (C9) - Failure to provide clear sight lines to the street for dwelling 5.
 - o. Control 4.9 (C12) - Landscaping includes potential to block sight lines.
 - p. Control 4.9 (C13) - Failure to include sufficient detail on proposed fencing.
 - q. Control 4.9 (C14) - Exceeding maximum front fencing widths.
 - r. Control 4.9 (C17) - Failure to propose suitable materials and finishes.
 - s. Controls 4.10 (C1, C3 and C5) - Failure to propose a suitable and sympathetic roof design for dwellings 1-7.
 - t. Control 4.11 (C1) - Failure to provide interiors that are capable of accommodating a range of furniture for dwellings 1-7.
 - u. Control 4.11 (C2) - Failure to provide living rooms which meet a minimum 3.5m dimension for dwellings 8-18.
 - v. Controls 4.12 (C1, C2 and C3) - Failure to achieve minimum solar access to living areas and 50% of private open space for 3 hours to all dwellings.
 - w. Control 4.12 (C4) - Failure to achieve minimum solar access requirements to private open space of neighbouring dwellings.
 - x. Controls 4.12 (C6 and C7) - Failure to provide sufficient information with relation to overshadowing of adjoining solar panels, and location of clothes drying areas.
 - y. Control 4.13 - Failure to maximise visual privacy between development and adjacent site – specifically with the north facing balconies of dwellings 8-13.
 - z. Controls 4.16 (C7, C8, C9 and C12) - Fails to provide information on locations of and screening to services and facilities.
18. Having regard to the above non-compliances with the Canterbury-Bankstown Development Control Plan 2023 and pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is unsatisfactory and represents an overdevelopment of the subject site.

19. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, providing an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
20. Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is excessive in terms of height and density, and would adversely impact upon the amenity of the locality.
21. Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is unsatisfactory in terms of its standard of design and would adversely impact upon the existing and likely future amenity of the locality.
22. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
23. Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land.
24. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, is unsatisfactory and is likely to adversely impact on the privacy and amenity of adjoining residential development.
25. Having regard to the previous reasons noted above and the number of submissions received by Council against the proposed development, pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.

- END -

Canterbury Bankstown Local Planning Panel - 08 December 2025

ITEM 2	221-235, 241-247A Homer Street and 208 Wardell Road, Earlwood
	Modify the approved five storey shop top housing development to include two additional stories for 22 dwellings, a new third level basement and internal and external alterations to the approved development including ground and basement level layouts
FILE	DA-1437/2024 – Budjar / Canterbury Ward
ZONING	R4 High Density Residential
DATE OF LODGEMENT	4 December 2024
APPLICANT	Loucas Architects
OWNERS	Spina Family Trust and George and Peter
ESTIMATED VALUE	\$9,790,000.00
AUTHOR	Planning

REPORT

This application is referred to Council’s Local Planning Panel (the Panel) in accordance with Schedule 2 of the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent*, issued by the Minister for Planning and Public Spaces under section 9.1 of the *Environmental Planning and Assessment Act 1979*.

The application seeks consent for a “sensitive development”, being a development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment development) applies and is four (4) or more storeys in height. The application must therefore be reported to the Panel for determination.

At its meeting of 13 April 2023, the Panel approved DA-779/2020 which granted consent for the development of this site as a five-storey shop-top housing development. This new application (Development Application DA-1437/2004) seeks to amend that earlier consent by

obtaining approval for two additional levels containing 22 extra dwellings as well as associated changes to the basement levels:

- Introduction of Basement 3 consisting of an additional eighty-five (85) residential parking spaces.
- Alterations to the parking layout on Basement 2:
 - Removal of 14x residential car parking spaces to accommodate for new ramp leading between Basement 2 and 3.
- Inclusion of a ramp through Basement 2 leading to the additionally proposed Basement 3.
- Addition of Level 5 consisting of fourteen (14) residential units.
- Addition of Level 6 consisting of eight (8) residential units.
- Allocating seventeen (17) units for affordable housing, throughout the six (6) levels of residential development.

Development Application DA-1437/2024 has been assessed having regard to the matters for consideration contained in section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against the provisions contained within *State Environmental Planning Policy (Sustainable Buildings) 2022*, *State Environmental Planning Policy (Housing) 2021*, *State Environmental Planning Policy (Planning Systems) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *Canterbury Bankstown Local Environmental Plan 2023*, *Canterbury Bankstown Development Control Plan 2023*, *Canterbury Bankstown Community Participation Plan 2012* (amendment 2, dated 23 July 2024) and *Canterbury Bankstown Local Infrastructure Contributions Plan 2022*.

The development complies with relevant planning legislation. It represents a suitable planning outcome for the site and the locality.

The application was placed on public exhibition for 21 days, from 18 December 2024 to 29 January 2025 (excluding the Christmas/ New Year “black out” period between 20 December 2024 and 10 January 2025) in accordance with Council’s adopted Community Participation Plan. A total of eight (8) unique submissions have been received, raising objections relating to visual privacy, building height, overdevelopment of the site, parking, traffic, solar access/ overshadowing, character of the area, acoustic concerns, property values, scale of development, extended construction duration, vehicular access, queuing on road, waste collection and outdoor spaces. Each of these issues are addressed in the body of this report.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that Development Application DA-1437/2024 be **APPROVED** subject to Conditions of Consent in Attachment 2.

ATTACHMENTS

1. Section 4.15 Assessment Report

2. Conditions of Consent

DA-1437/2024 ASSESSMENT REPORT

SITE AND LOCALITY DESCRIPTION

The subject site is known as 221-235, 241-247A Homer Street and 208 Wardell Road, Earlwood. It consists of four allotments legally identified as Lot 101 DP 747279, Lot 10 DP 10802, Lot 1 DP 123981 and Lot 12 DP 10802. The site is on the eastern corner of the intersection of Homer Street and Wardell Road and is an irregularly shaped allotment with a total site area of 3,645.3m². The site has a frontage of 81.39m to Homer Street and a secondary frontage of 73.465m to Wardell Road. The site is located on the northern side of Homer Street and the eastern side of Wardell Road.

At the time of lodgement, the entire site was zoned B2 Local Centre pursuant to the Canterbury Bankstown Local Environmental Plan 2023 (LEP). However, the LEP was amended on 17 April 2025 to include changes to business and industrial zones within the LGA. The site is now zoned E1 Local Centre. The site is located within the Earlwood Local Centre (see Figure 2).

The existing development on the site is as follows:

- No.221-235 Homer Street - two storey brick buildings with ground floor commercial uses and first floor commercial office spaces (see Figure 4).
- No.241-247A Homer Street - a vacant site (formerly a service station which has been subject to site remediation and validation following its use ceasing in 2002).
- No.208 Wardell Road - a single storey, three-bedroom dwelling house (see Figure 5).

The subject site is part of a strip of commercial premises along Homer Street which includes a diverse range of local scale retail, service and commercial premises. The surrounding land uses include commercial/ shop-top housing development along Homer Street and a five storey shop top mixed-use building with a basement at 205 Homer Street which was approved on 13 March 2015 by the Independent Hearing and Assessment Panel (IHAP) under DA-437/2013. To the rear of the site (along Wardell Road) are residential developments consisting of one and two storey dwelling houses.

The context of the subject site is illustrated in the aerial photo in Figure 1.

The site is within walking distance of bus stops on Homer Street for routes 423 which connects Kingsgrove to City Martin Place and local and regional centres and railway stations respectively. Bus services are accessible and operate 7 days a week. Bardwell Park railway station is approximately 950m-1km walking distance south east of the site.



Figure 1: Aerial of subject site, outlined in red **Source:** Nearmap

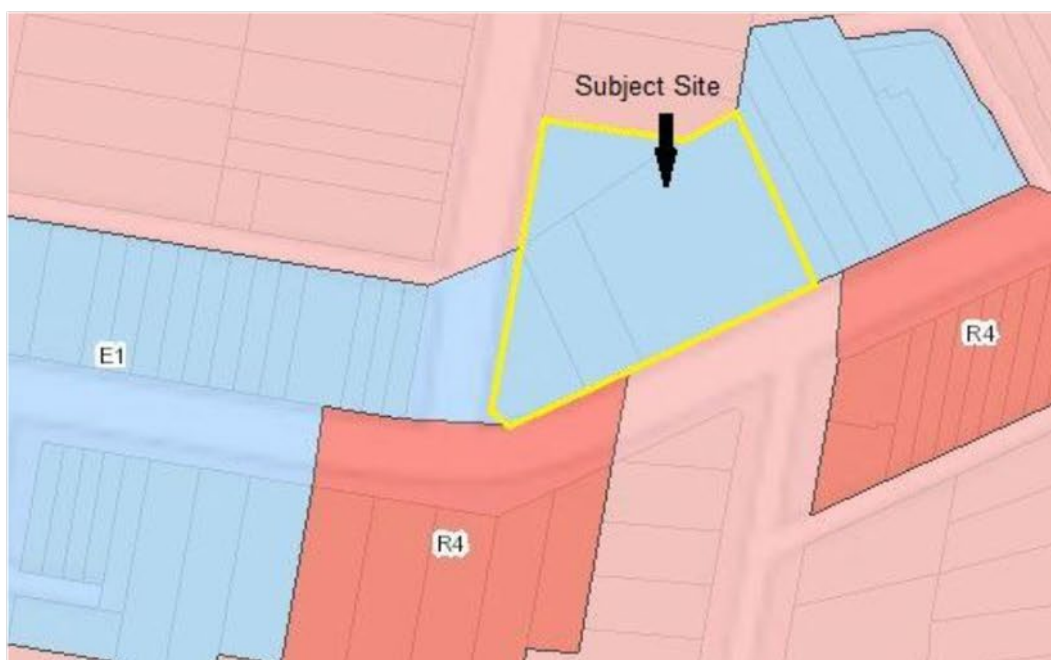


Figure 2: Zoning Map excerpt of the LEP **Source:** NSW Planning Portal, Digital EPI Viewer



Figure 3: View of 241-247A Homer Street, Earlowood **Source:** Google Maps



Figure 4: View of 221-225 Homer Street, Earlowood **Source:** Google Maps



Figure 5: View of 208 Wardell Road, Earlowood **Source:** Google Maps



Figure 6: Extract from Figure 6A in Chapter 7.3 in DCP showing lane connecting Wardell Rd with Baker Ln (purple dotted line). **Source:** CBDP 2023

BACKGROUND

On 11 September 2020, DA-779/2020 was lodged for the demolition of existing structures and construction of a five storey shop top housing development with shops at ground floor, residential units at upper levels and two levels of basement carparking and subdivision of the site into two lots to dedicate land at the rear of the site to form an access laneway. The application was presented to the Local Planning Panel on 13 April 2023 with approval recommended. On 19 April 2023 the application was approved.

Chapter 7.3 in the Canterbury Bankstown Development Control Plan 2023 (DCP) provides specific guidelines for development within individual commercial centres, with section 6 applying the Earlwood. Figure 6a in the DCP identifies the need for a lane to be established (as part of individual DAs) along the rear (northern) boundary of properties facing Homer Street to allow a vehicular connection between Wardell Road and Baker Lane, see Figure 6 below. As stated above, DA-779/2020 included a lane as part of its approval.

LEGAL MECHANISM FOR PROPOSAL

Following the approval of DA-779/2020, amendments were introduced into SEPP (Housing) 2021 to encourage the provision of affordable rental housing by providing a 30% increase in Floor Space Ratio (FSR) and building height for developments that provided affordable housing and this application seeks to utilise these amendments.

This application proposes two (2) additional levels to the previously approved five (5) storey development, resulting in a total of seven (7) storeys and an increase of twenty-two (22) dwellings. Of these, seventeen (17) dwellings are proposed to be dedicated to affordable housing. These affordable housing units are distributed throughout the development and are not limited to the newly added dwellings.

Approval may be granted subject to conditions imposed under s4.17(1)(a) of the Act. In addition, the Act provides the consent authority with the ability to amend conditions of an existing development consent under s4.17(1)(b) and s4.17(5), provided such modifications align with s67 in the EPA Regulation 2021.

To support this proposal, the application includes a written request under s67 of the Regulations, seeking amendments to the determination notice of DA-779/2020 to enable the development now proposed under DA-1437/2024.

Accordingly, the determination of this application would comprise both a new consent for DA-1437/2024 and modifications to the conditions attached to DA-779/2020. The modified original consent and the new consent would operate concurrently, thereby authorising construction of the proposal as amended. Recommendations relating to both consents are provided within this report.

PROPOSED DEVELOPMENT

Development Application DA-1437/2024 proposes to modify the approved five storey shop top housing development to include two additional stories for 22 new dwellings, a new third level basement for 46 vehicles and alterations to the approved ground and basement level layouts. Within the development, 17 of the dwellings are to be provided as affordable housing, and these are to be distributed throughout the development.

The table below provides a breakdown of the proposed development:

Specifics	
Basement 3	- Additional 85x residential car parking spaces. - Additional 20x bicycle spaces. - Residential storage spaces. - 2x residential bin rooms. - 3x lifts for residential access. - 2x lifts for commercial access. - 1x bin lift. - 3x emergency stairs.
Basement 2	- Removal of 14x residential car parking spaces to accommodate for new ramp leading between Basement 2 & 3. - Re-allocation of 5 residential spaces to visitor spaces.
Basement 1	- No changes proposed.
Ground Floor	- Additional stairs within the retail/commercial waste holding room (adjacent to bin lift).
First Floor	- New highlight window for Unit A1.07. - Dedication of 5 units as affordable housing.
Second Floor	- New highlight window for Unit A2.07. - Dedication of 3 units as affordable housing.
Third Floor	- No changes proposed.

	- Dedication of 3 units as affordable housing.
Fourth Floor	- No changes proposed. - Dedication of 3 units as affordable housing.
Fifth Floor	- 4x 1-bedroom units. - 7x 2-bedroom units. - 3x 3-bedroom units. - 3x lifts and emergency stair access. - Dedication of 3 units as affordable housing.
Sixth Floor	- 2x 1-bedroom units. - 3x 2-bedroom units. - 3x 3-bedroom units. - 3x lifts and emergency stair access.

STATUTORY CONSIDERATIONS

When determining this application, the consent authority is to take into consideration the matters in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Sustainable Buildings) 2022,
- State Environmental Planning Policy (Planning Systems) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Housing) 2021,
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023),
- Canterbury Development Local Infrastructure Contributions Plan 2022 (Contributions Plan 2022),
- Canterbury Bankstown Development Control Plan 2012 (CBDCP 2023).

SECTION 4.15 ASSESSMENT

The following sections of this report provide for an assessment of the development having regard to the matters for consideration contained in section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

When determining this application, the relevant matters for consideration listed in section 4.15(1) of the *Environmental Planning and Assessment Act 1979* must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

State Environmental Planning Policy (Sustainable Buildings) 2022

In accordance with SEPP (Sustainable Buildings) 2022, a BASIX Certificate accompanies this application. The Certificate makes a number of energy/ resource commitments relating to water, energy and thermal comfort. The relevant commitments indicated on the BASIX Certificate have been shown on the plans in order to satisfy the objectives of the SEPP. The BASIX Certificate requirements have been incorporated into standard conditions of consent and the certificate is listed with the approved documents.

State Environmental Planning Policy (Planning Systems) 2021

Clause 2.19(1) of Part 2.4 of SEPP (Planning Systems) 2021 reads as follows:

Development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act.

2 General development over \$30 million

Development that has a capital investment value of more than \$30 million.

Pursuant to Clause 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, the proposed development has a capital investment value of \$9.79 million. It is not identified as regionally significant development. Accordingly, the Canterbury Bankstown Local Planning Panel is the consent authority for this application.

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. The SEPP states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

A review of the history of the site shows that part of the subject site has been used for commercial purposes including a service station. The former service station site was remediated following that use ceasing in 2002. As a result of this, for DA-779/2020, the applicant submitted a Preliminary Site Investigation Report prepared by WITT Consulting with the Development Application. Council's Environmental Health Officer reviewed the documents and was satisfied the site could be made suitable for the mixed-use development subject to the imposition of suitable conditions of consent. Accordingly, the submitted reports demonstrate that the site is suitable for the purpose of the proposed development in accordance with SEPP (Resilience and Hazards) 2021. The conditions imposed for DA-779/2020 remain applicable for the overall development of the site.

As part of the subject application, Council's Environmental Health Officer has reviewed the additional information submitted. No objections have been raised subject to the recommended conditions of consent.

The requirements of the SEPP are therefore considered to have been satisfied.

State Environmental Planning Policy (Housing) 2021

SEPP (Housing) 2021 aims to support the development of diverse and sustainable housing that meets the needs of all community members, particularly those who are vulnerable or on lower incomes. It focuses on ensuring housing is well-planned, environmentally responsible, and provides a good standard of living, while also integrating with local infrastructure and maintaining affordability. Additionally, it promotes well-designed housing that enhances its surroundings and supports short-term rentals in a balanced way that benefits local economies while managing social and environmental impacts.

Chapter 2, Section 15 requires that before imposing conditions on affordable housing, the consent authority must consider whether the housing fosters mixed, socially diverse communities that represent all income groups, with housing made available to very low, low, and moderate-income households at appropriate rental rates. Additionally, the consent authority is to consider whether the affordable housing will be properly managed, maintained, and constructed to local standards, ensuring its continued use for its intended purpose while making effective use of designated land.

This application is subject to assessment of the matters for consideration in Chapter 2, Division 1 – In-fill affordable housing. The details of this assessment are outlined in the table below:

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 CHAPTER 2 AFFORDABLE HOUSING PART 2 – DEVELOPMENT FOR AFFORDABLE HOUSING DIVISION 1 – IN-FILL AFFORDABLE HOUSING			
CLAUSE	REQUIREMENT/PROVISION	PROPOSED	COMPLY
16 Affordable housing requirements for additional floor space ratio	The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30% subject to the percentage of the development used for affordable housing. This section does not apply to development on land for which there is no maximum permissible floor space ratio.	Site does not have a maximum permissible floor space ratio.	N/A
17 Additional floor space ratio for relevant authorities and registered	This section applies to residential development to which this division applies that is carried out— (a) by or on behalf of a relevant authority or registered community housing provider, and	The development is not proposed to be carried out by or on behalf of a community housing provider, nor does the site have a maximum permissible floor space ratio of 2:1.	N/A

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 CHAPTER 2 AFFORDABLE HOUSING PART 2 – DEVELOPMENT FOR AFFORDABLE HOUSING DIVISION 1 – IN-FILL AFFORDABLE HOUSING			
CLAUSE	REQUIREMENT/PROVISION	PROPOSED	COMPLY
community housing providers	(b) on land with a maximum permissible floor space ratio of 2:1 or less.		
18 Affordable housing requirements for additional building height	The maximum building height for a building used for shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30% subject to the percentage of the development used for affordable housing.	The affordable housing component of the project's gross floor area equates to 15.2%. This allows for a 30% bonus to the maximum permitted building height of the LEP which is 18m, resulting in a new permissible height of 23.4m. The development proposes a building height of 23.15m which complies with the maximum height permitted.	Y
19 Non-discretionary development standards—the Act, s 4.15	Minimum site area of 450m ² .	Site area: 3,645m ² .	Y
	Minimum landscaped area of 30% of the site area.	No changes to the approved landscaping are proposed as part of this application. As approved by DA-779/2020, a total of 947m² of the site is landscaped (within the communal open space area and planter boxes), equating to 25.9% of the site area, which includes paved outdoor areas in accordance with the definition of <i>landscaped area</i> in the SEPP.	N (see below)
	Deep soil zone on at least 15% of the site area, where— i. each deep soil zone has minimum dimensions of 3m, and ii. if practicable, at least 65% of the deep soil zone is located at the rear of the site.	Pursuant to Clause 19(3) in SEPP (Housing) 2021, the deep soil provisions do not apply to development to which Chapter 4 – Design of Residential Apartment Development applies.	N/A
	Living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,	Pursuant to Clause 19(3) in SEPP, the solar access provisions do not apply to development to which Chapter 4 – Design of	N/A

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 CHAPTER 2 AFFORDABLE HOUSING PART 2 – DEVELOPMENT FOR AFFORDABLE HOUSING DIVISION 1 – IN-FILL AFFORDABLE HOUSING			
CLAUSE	REQUIREMENT/PROVISION	PROPOSED	COMPLY
		Residential Apartment Development applies.	
	Parking at the following rate: Affordable Housing: • 0.4 spaces per 1-bedroom • 0.5 spaces per 2-bedroom • 1 space per 3-bedroom. Total of 17x 2-bedrooms require nine (9) parking spaces (rounded). Market Rate Housing: • 0.5 spaces per 1-bedroom • 1 space per 2-bedroom • 1.5 spaces per 3-bedroom. Total of 20x 1-bedroom, 27x 2-bedroom and 21 3-bedroom require 69 car parking spaces (rounded). 78 residential car parking spaces are required.	128 residential car parking spaces are provided on Basement 2 & 3.	Y
20 Design requirements	Consent authority must consider whether the development is compatible with the character of the area or the desired character of an area in transition.	The proposal is compatible with the existing and desired future character of the area which is in transition to higher density outcomes.	Y
21 Must be used for affordable housing for at least 15 years	Consent must not be granted unless the consent authority is satisfied the affordable homes will be managed by a registered affordable housing provider for at least 15 years commencing on the day the occupation certificate is issued.	Condition of consent to be imposed.	Y

19 Non-discretionary development standards—the Act, s 4.15 – Landscaped Area:

As approved in DA-779/2020, the site provides 947m², or 25.9%, of landscaped area - comprising paved areas and planter boxes within the communal open space in accordance with the definition of *landscaped area* in the SEPP. It is noted that this was compliant in line with the approval. Chapter 2, Division 1, Section 19 *Non-discretionary development standards—the Act, s 4.15* of the SEPP requires a site to

provide a minimum 30% of the site area as landscaped area. As such, the site is deficient by 4.1% of expected landscaped area.

The approved development had a 100% coverage of the site, making an additional 4.1% of landscaping unachievable.

The applicant has provided the justification that *"The amended development contains a total of 85 x dwellings resulting in a landscaped area standard 30% of the site area (1093.5m²), and a deep soil requirement of 15% of the site. Pursuant to Clause 19(3) of the SEPP, the deep soil provisions do not apply to development to which Chapter 4 – Design of Residential Apartment Development applies. The proposal does not alter the approved building footprint under DA-779/2020 and as such does not comply with the landscaped/deep soil area non-discretionary standards. This variation is consistent with the provisions of Part 3E of the ADG which confirms that achieving deep soil landscaping is not possible where there is 100% site coverage – non-residential uses at ground such as that approved for the site"*.

Notwithstanding the non-compliance detailed above, the application has demonstrated an outcome consistent with the NSW ADG through the provision of delivering better quality design for buildings that respond appropriately to the character of the area and the improvement of liveability through internal and external apartment amenity. The provided justification is acceptable in this instance, and the approved landscaping is, on balance, adequate for the proposed development.

SEPP (Housing) 2021 aims to improve the design quality of residential apartment development across NSW and includes the Apartment Design Guide (ADG) for assessing "good design".

Additionally, s29 in the Environmental Planning and Assessment Regulation 2021 requires the submission of a statement from a qualified designer at lodgement of the development application. A statement accompanies this application which declares that a registered architect has reviewed the plans and verified that "the design quality principles" prescribed by Schedule 9 of State Environmental Planning Policy (Housing) 2021 and the objectives set out in Parts 3 and 4 of the Apartment Design Guide prepared by the NSW Department of Planning and Environment have been achieved by the development.

The ways in which the proposal meets the Design Principles are identified as follows:

Principle 1: Context and Neighbourhood Character

The site is part of the existing commercial strip of Earlwood Local Centre located along Homer Street. The Earlwood Local Centre is expected to undergo transition in density and character from small, narrow lots with one and two storey buildings to amalgamated sites with mixed use buildings of four and five storeys as prescribed by the planning provisions.

The rear of the site adjoins residential zoned land and the Canterbury Bankstown Development Control Plan (CBDPC) 2023, Chapter 7.3, Section 6 identifies a future public laneway (connecting Baker's Lane with Wardell Road) to separate the commercial zoned land from the residential zoned land.

The two-storey addition proposed to the approved building has been designed in accordance with the anticipated building height for affordable housing pursuant to clause 18 of the SEPP (Housing) 2021 which permits a height bonus to the development.

The additional building height allocated to affordable housing is suitable for a corner site in the E1 – Local Centre Zone with the resultant built form designed to step down at the north-west corner to achieve adequate separation and transition to the adjoining R2 Low Density Residential Zone addressing Wardell Road consistent with the approved building under DA-779/2020.

The additional residential dwellings proposed, including seventeen (17) affordable rental housing units, adaptable and liveable units contribute to the provision of affordable and diverse residential accommodation within the locality. The additional residential density is suitable within the context of the site being within close proximity to well-serviced bus stops along Homer Street.

Principle 2: Built Form and Scale

The development proposal has been designed in accordance with the intent of the building height provisions for infill affordable housing development.

The development provides an additional two storeys above the approved built form, concentrated at the southern portion of the site – Homer Street frontage and street corner at the intersection of Homer Street and Wardell Road.

The additional built form presents an appropriate design solution for the site, with the additional storeys recessed from the 3-storey podium of the approved development and designed in a to be concentrated towards Homer Street which mitigates its visual impact upon the residential zoned land north of the site along Wardell Road.

Principle 3: Density

The density of the building is compatible with the desired future character of the locality presented in the Canterbury Bankstown LEP and DCP, notwithstanding the additional density provided to the proposal under the provisions of the SEPP (Housing) 2021. The proposed dwellings, including affordable rental dwellings provide housing in the catchment of public open space, public transport, and the Earlwood commercial centre.

The additional building height is well-articulated, being contained within a slender building footprint running east-west across the approved building below that is concentrated towards Homer Street. The additional density is acceptable to Homer Street and a corner development ensuring separation and transition in built form is achieved to the R2 – Low Density Residential Zone adjoining the northern boundary.

Principle 4: Sustainability

A BASIX Certificate has been submitted to Council with this development application, which details the resource, energy and water efficiency measures that will be incorporated into the proposal. A 21kW photovoltaic system is proposed to be installed on the rooftop.

The residential units have been designed to maximise residential amenity for the subject site with 64/85 units – 75.3% of the units to receive 2 hours of sunlight to living rooms in midwinter, with 51/85 units – 60% being cross-ventilated, reducing reliance on heating and cooling systems. The amenity of the units is attributed to the orientation of the subject site and the design of each building with a central circulation core and all units designed with multiple aspects.

Principle 5: Landscape

The proposal does not alter the approved building footprint under DA-779/2020. The additional levels proposed will not reduce the approved landscaping and communal open spaces approved under DA-779/2020.

The approved communal open spaces satisfactorily achieve the requirements for development as required by SEPP (Housing) 2021. The common open space areas will remain as approved, have a variety of spaces for movement, relaxation, an outdoor kitchen and eating areas, seating, small shade trees, grassed and paved areas and a communal vegetable garden.

Principle 6: Amenity

The units have been designed in accordance with the Apartment Design Guide ensuring the dwellings are of suitable dimension and designed to maximise solar access and ventilation with 64 out of 85 units – 75.3% of units achieving 2 hours of sunlight to living rooms and private open space and with 51 out of 85 units – 60% being cross-ventilated. The design of the residential flat building development supports external glazing for cross ventilation to the units and provides opportunity for different views from dual aspect units. The development proposal includes various areas of communal open space providing residents additional access to sunlight and recreational areas at different times of the year.

Separation distances internal to the site and from site boundaries are compliant with the ADG. The orientation of windows and private open spaces and changes in levels assists in achieving privacy and amenity within the site. Fin walls and fixed screening are included within the site to further enhance visual and acoustic privacy.

The aspect of the site is such that shadow cast by the new building will not impact neighbouring residential properties. Shadow will primarily be cast onto the adjoining roadways in the mornings through to mid-afternoon and the neighbouring commercial building to the east in the late afternoon.

Secured storage areas are included in Basement Level 3 with each apartment also containing internal storage spaces.

There are multiple secured access points to the apartments with three separate circulation cores linked to three pedestrian lobbies with street access, these points will remain as approved in DA-779/2020. Each access core also has a link to the primary communal open space.

All access points from the street frontages – including access to commercial premises – will remain as approved in DA-779/2020.

The apartment layouts are compliant with the ADG and BCA in terms of internal layout, room dimensions and natural light. All apartments are provided with sufficient private open space areas directly accessible to the internal open plan living spaces.

All apartments have an outlook either to the adjoining streets or communal open space or both.

Principle 7: Safety

Access and egress points to the building and basement will be secured and remain as approved in DA-779/2020.

The proposed new dwellings include balconies and outdoor terrace areas which promote casual surveillance of both the primary street frontage and communal areas of the site.

Principle 8: Housing Diversity and Social Interaction

The proposed design incorporates a mix of apartment sizes and layouts and includes adaptable and liveable units which accommodates for diversity, affordability and housing choice.

The alterations and additions to the approved development incorporate affordable rental units which provides affordable housing to meet demand and addresses housing affordability with the provision of the additional 6x 1-bedroom, 10x 2-bedroom and 6x 3-bedroom units (including adaptable and liveable units) within close proximity to public transport. The amended development contributes to housing diversity and affordability within the locality.

Principle 9: Aesthetics

The proposal contributes to the desired future character of the Earlwood Local Centre contained in the CBDP 2023. The additional storeys proposed above the approved building is well articulated and has been designed in accordance with the site context, being concentrated towards the Homer Street frontage in a slender footprint presenting an appropriate built form transition from the surrounding residential zones to the subject site. The development proposal has been designed with the proposed two storey addition designed to be consistent with the built form and materiality of the approved development – recessed upper levels with dark external finishes above the 3-storey podium at the street level.

Apartment Design Guide

Further to the design quality principles discussed above, the proposal has been considered against the provisions of the Apartment Design Guide (ADG) in accordance with Chapter 4 of Housing SEPP 2021.

APARTMENT DESIGN GUIDE			
SECTION	DESIGN CRITERIA	PROPOSED	COMPLY
PART 3 – SITING THE DEVELOPMENT			
3C Public Domain Interface	Upper level balconies and windows should overlook the public domain. Length of solid walls should be limited along street frontages.	The external design from the ground level to Level 4 will remain as approved in DA-779/2020. As such, the provisions within this section will remain compliant as per the approved design. The following point of design guidance were assessed against the proposed additions to the development. The proposed units on level 5 and level 6 all contain balconies that overlook the public domain, and/or communal open space area. The design of the development avoids long blank walls throughout the development through articulation, and the proposed balconies oriented toward the public domain. Further to comments from Council's Urban Design Team, a condition of consent is to be imposed for the blank eastern wall to incorporate an interim feature wall treatment (mural) to create visual interest and reduce its visual impact. This condition will ensure that the mural design	Yes , subject to recommended conditions of consent

		will be to the satisfaction of Council.													
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site. Developments achieve a minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)	Communal open space will remain as approved in DA-779/2020. No changes are proposed as part of this application. Due to the orientation of the existing development, and the location of the additional levels within the proposal, the solar access to the approved communal open space will be maintained and receive 2 hours at mid-winter.	Yes												
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions: <table> <tr> <th>Site Area</th> <th>Min. Dimensions</th> <th>Deep Soil Zone (% of site area)</th> </tr> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² - 1,500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </table>	Site Area	Min. Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² - 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	No changes are proposed to deep soil as part of this application. The proposal is consistent with the approval of DA-779/2020. This noted that the ground floor level achieved 100% site coverage with commercial development, therefore no deep soil planting was required at ground level as per the ADG. Alternative methods of planting were approved within the communal open spaces and edge planting within the Level 3 private open space areas.	Yes
Site Area	Min. Dimensions	Deep Soil Zone (% of site area)													
Less than 650m ²	-	7%													
650m ² - 1,500m ²	3m														
Greater than 1,500m ²	6m														
Greater than 1,500m ² with significant existing tree cover	6m														
3F Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	<u>Building Separation to rear</u> <u>Level 5</u> Minimum 14.13m to private open space. <u>Level 6</u> Minimum 19.965m to private open space.	Yes												

	<table><tr><th>Building Height</th><th>Habitable Rooms & Balconies</th><th>Non-habitable Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table> Note: An increased 3m building separation is required given the land to the north of the site is a different zone (i.e. R2 Low Density Residential) that permits lower density residential.	Building Height	Habitable Rooms & Balconies	Non-habitable Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	All separations to northern boundary meet the objective of 3F-2 of the ADG. <u>Separation internal to site</u> <u>Level 5</u> Minimum 13.511m from bedroom 2 (C5.03) to bedroom 1 (A5.02). <u>Level 6</u> Minimum 19.9m from living room (B6.01) to bedroom 1 (A6.02). Visual and aural privacy addressed with window orientation and louvres. All windows are offset and none directly face each other. The connected terraces between the A-block and B-block units are separated by a privacy wall.	
Building Height	Habitable Rooms & Balconies	Non-habitable Rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										
3J Bicycle and Car Parking	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP 2012	Refer to assessment under Chapter 3.2 of the CBDP 2023	Yes									
	The car parking needs for a development must be provided off street.	Car parking is provided in Basement Levels 1, 2 and 3	Yes									
PART 4 – DESIGNING THE BUILDING												
4A Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. A maximum of 15% of apartments in a building receive	20 of the 22 dwellings, or 90.9% of the proposed units receive 2 hours of direct sunlight between 9am and 3pm. 64 of the total 85 dwellings, or 75.2% (of all units within the	Yes									

	no direct sunlight between 9 am and 3 pm at mid-winter.	development) receive 2 hours of direct sunlight between 9am and 3pm. 2 of the 22 dwellings, or 9.1% of the proposed units receive no direct sunlight at mid-winter. 11 of the 85 dwellings, or 12.9% (of all units within the development) receive no direct sunlight between 9am and 3pm at mid-winter.		
4B Natural ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Additional windows proposed for 2 units on level 1 and 2. Ventilation of apartments comply, with 14 of the 22 dwellings, or 63.6% of the proposed units are naturally cross ventilated. 51 of the 85 dwellings or 60% (of all units within the development) are naturally cross ventilated.	Yes	
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Depths of cross-through apartments do not exceed 18m.	Yes	
4C Ceiling heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Floor to ceiling heights from ground level to level 4 will remain as approved. The proposed floor to ceiling height of level 5 and level 6 are 2.9m.	Yes	
	Minimum Ceiling Height for Apartment and Mixed Use Buildings			
	Habitable rooms			2.7m
	Non-habitable			2.4m
	For 2 storey apartments	2.7m main living area floor 2.4m for second floor, where its area does not		

		exceed 50% of the apartment area		
	Attic Space	1.8m at edge of room with a 30 degree minimum ceiling slope		
	If located in mixed use areas	3.3m for ground & first floor to promote future flexibility of use		
	These minimums do not preclude higher ceilings if desired.			
4D Apartment size and layout	Apartments are required to have the following minimum internal areas:		Apartments on Level 1-4 will remain as existing.	Yes
	Apartment Type	Minimum Internal Area	No studio apartments are proposed on level 5 and level 6.	
	Studio	35m ²	Minimum one bedroom apartment size = 50.4m ²	
	1-bedroom	50m ²	Minimum two-bedroom apartment size = 75m ²	
	2-bedroom	70m ²	Minimum three-bedroom apartment size = 105.4m ²	
	3-bedroom	90m ²		
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.			
	A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each.			
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.		Complies.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.		Room depths are compliant. Open plan arrangement, but areas are separated into designated spaces (i.e. living, dining, kitchen), and do not exceed 8m. (Complies as per below).	Yes

	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Room depths are compliant. Open plan arrangement, but areas are separated into designated spaces (i.e. living, dining, kitchen) and do not exceed 8m	Yes															
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Apartment layouts on level 1-4 will remain as approved. All bedrooms of the proposed units on level 5 & 6 comply with these measurements.	Yes															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Apartment layouts on level 1-4 will remain as approved. All bedrooms of the proposed apartments on level 5 & 6 comply with this measurement.	Yes															
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1-bedroom apartments • 4m for 2- and 3-bedroom apartments.	Apartment layouts on level 1-4 will remain as approved. All living rooms or combined living/dining rooms of the proposed apartments on level 5 & 6 comply with these measurements.	Yes															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Complies.	Yes															
4E Private open space and balconies	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Min. Area</th><th>Min. Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1-bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2-bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling type	Min. Area	Min. Depth	Studio apartments	4m ²	-	1-bedroom apartments	8m ²	2m	2-bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Balcony areas on level 1-4 will remain as approved. All private open space areas on level 5 and level 6 meet or exceed the minimum area and dimensions.	Yes
Dwelling type	Min. Area	Min. Depth																
Studio apartments	4m ²	-																
1-bedroom apartments	8m ²	2m																
2-bedroom apartments	10m ²	2m																
3+ bedroom apartments	12m ²	2.4m																

	The minimum balcony depth to be counted as contributing to the balcony area is 1m.		
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.	Not proposed as part of this application.	N/A
4F – Common circulation and spaces	The maximum number of apartments off a circulation core on a single level is eight.	Number of units per circulation core on level 1-4 will remain as approved DA-779/2020. No more than 6 units proposed per circulation core on level 5 and 6.	Yes
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Proposed development is less than 10 storeys.	N/A
4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:		Yes
	Dwelling type	Storage size volume	
	Studio apartments	4m³	
	1-bedroom apartments	6m³	
	2-bedroom apartments	8m³	
	3+ bedroom apartments	10m³	
	At least 50% of the required storage is to be located within the apartment.		
4H Acoustic Privacy	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.	Rooms with similar noise requirements have generally been grouped together. Where this was not possible, the architectural plans detail measures for noise mitigation between apartments on level 5 and level 6.	Yes, subject to recommended conditions of consent
	Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas.		
	Rooms with similar noise requirements are grouped together.	The acoustic report submitted in support of this application	

	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	prepared by Anavs-Acoustic Noise & Vibration Solutions P/L, Rev.5, dated October 28, 2024 provide recommendations for acoustic privacy form part of the development consent.	
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Canterbury Bankstown Local Environmental Plan 2023

The following clauses of the Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023) were taken into consideration:

Section 1.2 – Aims of Plan

The proposal is consistent with the aims of the Plan, specifically regarding its compatibility with the desired future character of the area, providing a range of residential accommodation and business opportunities and creating vibrant town centres. The development achieves good urban design and concentrates trips near public transport, being within 100m walking distance from a regularly serviced bus stop (Kingsgrove Depot to City-Martin Place).

Section 2.2 – Zoning of land to which Plan applies

At the time of lodgement, the site was zoned B2 Local Centre under the Canterbury Bankstown Local Environmental Plan 2023, however, the CBLEP 2023 was amended on 17 April 2025 to include changes to business and industrial zones within the LGA. The site is now zoned E1 Local Centre. No changes to the permissible uses or other controls for this site were made with the change. A shop top housing development remains a permissible form of development with consent on the land.

Clause 2.3 – Zone objectives and Land Use Table

Clause 2.3(2) of the CBLEP 2023 states 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 that zone*”. The Land Use Table identifies the objectives of the *B2 Local Centre* zone as being:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide for certain residential uses that are compatible with the mix of uses in the local centres.
- To promote a high standard of urban design and local amenity.

The objectives of the E1 zone are similar but include differences and are listed below:

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To promote a high standard of urban design and local amenity.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.

The development, as modified remains consistent with the objectives of the B2 Zone, as well as the objectives of the E1 Zone. The proposed additions remain consistent with the land use, as the proposed changes are to provide additional units and basement parking spaces, which does not deviate from the initial compliance with the objectives of the zone.

With respect to the approval granted on 19 April 2023, by the Local Planning Panel for DA-779/2020, the proposed additions do not change the approved use/ typology of the initially approved development and is permissible with consent on land within a B2 and E1 Zone.

Section 4.3 – Height of buildings

The maximum permitted building height shown on the "Height of Buildings Map" for this site is 18 metres. Utilising the bonus height provisions of Chapter 2 of SEPP (Housing) 2021 a further 30% increase in building height is permitted. This brings the total permissible height to 23.4 metres. As modified, the development is proposed to reach a height of RL 68.65 AHD over the corresponding natural ground level of RL45.50 AHD. The proposed maximum height of the development to the lift overrun is therefore 23.15 metres which complies with the bonus building height permitted.

Section 4.4 – Floor space ratio

The site is not mapped with a maximum floor space ratio on the "Floor Space Ratio Map". As such, no floor space ratio restriction applies to the subject site.

Section 6.2 – Earthworks

The development is consistent with this clause which aims to avoid, minimise or mitigate the impacts of earthworks. The proposed development involves additional excavation works to accommodate a third basement level for parking and services.

As part of DA-779/2020, the extent of excavation for 2 basement levels was considered appropriate and acceptable subject to conditions of consent requiring engineering details and a Dilapidation Report to the satisfaction of the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. The application was also accompanied by a Desktop Geotechnical Investigation from Witt Consulting dated July 2020 which found the level of earthworks to be acceptable subject to recommendations and conditions of consent.

Accompanying the subject application was "Geotechnical advice for Additional Basement Level 3" prepared by Witt Consulting on 9 October 2025. This advice refers to the original Desktop Geotechnical Investigation that was prepared for DA-779/2020, and further states that no change needs to be made from the original geotechnical advice, for the addition of basement 3, and that their geotechnical recommendations remain valid.

Section 6.21 – Restrictions on development in Zones E1 and E3

This section applies to land zones E1 (formerly B2 zoned land) and restricts the consent authority from granting development consent on land to which this section applies if the ground level would be used for residential accommodation. No residential accommodation is proposed on the ground floor as part of this application.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

There are no applicable draft environmental planning instruments.

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

Canterbury Bankstown Development Control Plan 2023

The development application has been assessed against the provisions contained within the Canterbury Bankstown Development Control Plan 2023 (CBDPCP).

The relevant Parts of the DCP are listed below:

- Chapter 2.2 – Flood Risk Management
- Chapter 3.1 – Development Engineering Standards
- Chapter 3.2 – Parking
- Chapter 3.3 – Waste Management
- Chapter 5.2 – Former Canterbury LGA
- Section 6 – Shop top Housing.

The relevant controls within the CBDPCP, and the manner in which this development addresses these controls, is detailed in the following table:

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023			
CLAUSE	REQUIREMENT	PROPOSED	COMPLY
2.2 Flood Risk Management	To reduce the risk to human life and damage caused by flooding and to control development activity within floodplains.	No changes are proposed to the floor levels of the approved development under DA-779/2020. The application has been reviewed by Council's Development Engineer who considered the proposal suitable subject to already included conditions of consent under the original determination notice.	Yes
3.1 Development Engineering Standards	To ensure development provides satisfactory levels of engineering infrastructure and to minimise the impact of development on surrounds.	No changes to the approved VFC under DA-779/2020 as part of this application. The application has been reviewed by Council's development Engineer, with specific regard to the proposed basement ramp and parking spaces. The proposal is considered suitable subject to already included conditions of consent under the original determination, and the additional conditions of consent provided under the subject application.	Yes
3.2 Parking	To ensure development achieves the parking requirements and to ensure the layout and design of car parks function efficiently and safely. The parking rates of SEPP (Housing) 2021 prevail over the parking rates of the DCP. Visitor parking: 0.15 car space per dwellings. Bicycle spaces: 1 visitor space per 10 dwellings. Requires 13 visitor car parking spaces, and 9 bicycle spaces.	The application has been reviewed by Council's Development Engineer, with specific regard to the amended basement 2 layout, and proposed basement 3. Car parking rates meet the requirements under SEPP (Housing) 2021. 14 Visitor car parking spaces proposed. 20 residential bicycle spaces proposed.	Yes

3.3 Waste Management	To maximise resource recovery and encourage source separation of waste, reuse and recycling by ensuring development provides adequate and appropriate bin storage areas and collection areas.	The application has been reviewed by Council's Resource Recovery Officer who provided conditions of consent.	Yes
5.2 Residential Accommodation (Former Canterbury LGA) Section 6 – Shop-top Housing	6.2.4 (C2) Site the development to avoid casting shadows onto neighbouring dwellings primary living area and private open space.	As shown on the submitted shadow diagrams, the increase in height creates additional overshadowing, particularly to the lots, south of the subject site. However, the majority of the shadows will be cast onto Homer Street. The lots to the south that will be overshadowed by the additional building height, as still capable of receiving solar access to their private open space and living areas for 3 hours at the mid-winter solstice. Additional information was submitted due to concerns regarding the corner property (south of the subject site). The submission of additional information revealed that this site is capable of receiving solar access to their private open space from 8am-11am, Their east facing living/lounge room windows are capable of receiving sunlight from 8am-12noon.	Yes

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

A planning agreement has not been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979* nor has the applicant offered to enter into a draft planning agreement.

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

The proposed development is consistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2021*.

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

The proposed increase in building height will not bring about additional environmental, social or economic impacts, to what was approved under the original consent. The proposed increase in height is well contained within the permissible building height and the resulting increase in density can be accommodated within the locality which provides easy access to a variety of services and transportation options.

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

The development of the site for the purposes of modifying the approved five storey shop top housing development include two additional storeys for 22 dwellings, a new third level basement and internal and external alterations to the approved development including ground and basement level layouts, is permitted with consent, and the applicable development standards have been complied with. Moreover, the proposed built form responds appropriately to the conditions and context of the site. The site is therefore suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was neighbour notified and advertised for a period of 21 days, from 18 December 2024 to 29 January 2025 (excluding the Christmas/ New Year Period between 20 December 2024 and 10 January 2025) in accordance with Council's adopted Community Participation Plan.

A total of eight (8) submissions have been received with respect to the proposed development. In each case, the submissions raised objection to the development proceeding. The submissions raised the following concerns:

Submission: *Increased windows facing dwellings, overlooking of adjoining properties and reduced privacy*

Comment: The proposed building has been carefully designed to comply with and exceed, the minimum separation distances set out in the NSW Apartment Design Guide (ADG), which are intended to safeguard both aural and visual privacy.

While the inclusion of windows and balconies at upper levels will naturally introduce new sightlines between properties, efforts have been made to ensure these spaces are positioned at a considerable distance from surrounding homes to reduce direct overlooking.

Submission: *Height and topography*

Comment: The development complies with the maximum permitted height in accordance with the Canterbury Bankstown Local Environmental Plan 2023 with a bonus height afforded under State Environmental Planning Policy (Housing) 2021 due to the inclusion of affordable housing units within the development. In particular, the Canterbury Bankstown Local Environmental Plan 2023 permits a building on the site to reach a maximum 18m in height where State Environmental Planning Policy (Housing) 2021, allows a further 30% increase in

height. As a result, the maximum height of a building on this site is 23.4m. The application proposes a building with a height of 23.35m, which falls within the height development standard.

Submission: *Retail and visitor parking*

Comment: The commercial tenancies and associated parking spaces will remain consistent with those previously approved under DA 779/2020, ensuring no reduction in provision for retail use.

In addition, this application proposes further residential and visitor parking spaces beyond the minimum requirements set by the planning controls. This will ease pressure on surrounding streets and provide greater convenience for residents and their guests.

Submission: *Impact of increase of traffic and population on surrounding neighbourhood. Traffic, queuing and pedestrian congestion*

Comment: A Traffic Impact Assessment was submitted as part of the subject application. This report was reviewed by Council's Traffic Team, and the proposed changes were deemed acceptable on traffic grounds. The impact of increased traffic on this site is acceptable to Council's Traffic Engineer and the operation of parking within the site is acceptable to Council's Development Engineer.

Submission: *Overshadowing of nearby residential properties*

Comment: The application is accompanied by shadow diagrams which show the change in shadowing from the original approval to the proposed increase in height. While some additional shadowing would result from the proposed increase in height, the stepped design of the top floor constrains additional shadowing resulting from the increase in height, while retaining solar access the rear elevation and private open spaces in a manner consistent with the original determination.

Dwellings to the south are expected to retain some direct solar access to the private open spaces, and living room windows of homes in the morning hours measured at the mid-winter solstice. The mid-winter solstice is the day with the least amount of daylight hours and where the angle of the sun is the lowest, resulting in the greatest shadowing extent possible from the development.

Submission: *Increased noise*

Comment: The proposed building has been carefully designed to comply with and exceed, the minimum separation distances set out in the Apartment Design Guide (ADG), which are intended to safeguard both aural and visual privacy.

Additionally, an Acoustic Report was submitted as part of the application. Council's Environmental Health Officer reviewed this document and raised no objections subject to condition of consent being imposed.

Submission: *The development will reduce the property value of surrounding homes*

Comment: Impacts on property values is not a matter which Council can consider when assessing development applications as it falls outside the scope of assessment under s4.15 of the Environmental Planning & Assessment Act, 1979.

Submission: *Not in character with the area. The proposed development site size, height, visual impact, scale, character and density does not align with the character of our neighbourhood. No other buildings over 5 levels in the area*

Comment: Council's policy anticipates five storey building in the Earlwood town centre but the applicant has taken advantage of a policy introduced by the NSW Government, SEPP (Housing) 2021, which allows developments to have a 30% increase in height where that increase provides affordable rental accommodation and that is what is sought by this development. These controls anticipate taller buildings as the area transitions to higher density living, meaning the proposal reflects the desired future character of the locality while aligning with the planning framework.

Submission: *Longer construction and disruption*

Comment: Conditions of consent have been imposed as part of the original application (DA-779/2020) and the subject application to minimise disruption during construction such as by restricted the working hours.

Submission: *Reallocate existing approved levels for potential affordable rental dwellings*

Comment: The size of the development with the 2 additional proposed levels is consistent with the requirements contained within the Canterbury Bankstown Local Environmental Plan (CBLEP 2023) and the State Environmental Planning Policy (Housing) 2021. Restrictions cannot be imposed for further development that is within the constraints of the relevant planning instruments.

Submission: *Limited street parking*

Comment: The development exceeds the required quantity of off-street parking. The excess of parking spaces proposed as part of this application will reduce the likelihood of occupants parking on the street.

Submission: *Vehicular access to the property from Wardell Road*

Comment: No changes are proposed to the approved vehicular access from Wardell Road as part of the subject application. The vehicular access to the site will remain as approved under DA-779/2020.

Submission: *Trucks queuing on Wardell Road while loading bay is occupied*
Comment: No changes are proposed within this application, to the approved loading bay or vehicular access under DA-779/2020.

As addressed within the original application:

The loading bay will be subject to a Plan of Management as will the timing and responsibilities for waste management to ensure that the timing of truck movements to and from the site is managed to reduce impacts to traffic flow and neighbour amenity.

Conditions of consent were imposed to include limitations on the timing of use of the loading bay. There must be no use between 7am and 10am and between 5pm and 8pm Monday to Saturday inclusive. This will ensure that the loading bay is used during times when traffic movements on local roads are non-peak.

Submission: *Plant equipment, waste storage areas increasing noise*
Comment: Building services on the ground floor and basement 1 will remain as approved within DA-779/2020. All additional building service areas are located within basement level 2 and 3 to minimise any acoustic impacts to adjoining properties.

Submission: *Waste collection, and bins being collected on Wardell Road, or trucks accessing the laneway at early hours*
Comment: Whilst there will be an increase of waste due to the additional units proposed, waste storage areas have been proposed within the basement levels. These have been assessed by Council's Resource Recovery Officer, who raised no objections subject to conditions of consent.

Additionally, no changes are proposed to the method of waste collection as part of this application. This process will remain as approved by DA-779/2020. As part of the original approval, the operation of the loading dock and waste servicing was subject approved Plan of Management.

Submission: *Insufficient outdoor space within the proposal for the number of residents*
Comment: The outdoor space/communal open space remains consistent with the requirements contained within the State Environmental Plan (Housing) 2021, and Apartment Design Guide (ADG), despite the additional proposed units.

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

The public interest is best served by the consistent application of the requirements of the relevant planning legislation and by the consent authority ensuring that any adverse impacts on the surrounding area and environment are avoided. As demonstrated in this report, the development satisfies the provisions contained within the applicable planning legislation, provides for a development that is in keeping with the existing and emerging character of the area, and responds appropriately to the immediately adjoining developments. As such, approval of the development would be in the public interest.

CONCLUSION

In April 2023 Council approved a five-storey shop top housing development on this site. A fresh development application has now been lodged seeking Panel approval to amend the earlier consent by expanding it to accommodate two additional storeys and 22 dwellings with a corresponding increase in basement parking.

This report provides a detailed assessment of the amending application DA-1437/2024 which complies with the relevant planning provisions. The development successfully protects the environmental amenity of the area in addition to preserving the desired future character of the locality.

The proposed development utilises provision in SEPP (Housing) 2021 that afford a 30% increase in building height and FSR for additional affordable housing in a well suited and serviced location, achieving the relevant planning objectives.

In this regard, the application is worthy of support, and an approval will have beneficial impacts to the social and environmental aspects of the community.

RECOMMENDATION

It is recommended that Development Application DA-1437/2024 be **APPROVED** subject to Conditions of Consent in Attachment 2.

Conditions of Consent - DA-1437/2024

Explanatory Note

Development consent was granted by the Canterbury-Bankstown Local Planning Panel on 13 April 2023 to DA—779/2020 which authorised for the demolition of existing structures and construction of a five storey shop top housing development with shops at ground floor, residential units at upper levels and two levels of basement carparking and subdivision of the site into two lots to dedicate land at the rear of the site to form an access.

In accordance with s4.17(1)(b) and s4.17(5) of the Environmental Planning & Assessment Act 1979, Determination Notice No. DA-779/2020 is to be further modified as necessary to be consistent with the development consent conditions contained within this determination notice for DA-1437/2024.

Before the issue of any construction certificate for this consent the certifying authority must ensure that no conditions or requirements imposed by conditions contained within the determination notice of DA-779/2020 will restrict or prohibit the carrying out of conditions of consent contained within this determination notice of DA-1437/2024 or vice versa. The two consents are to be read and carried out in conjunction with each other to achieve the desired outcome of the approved development as shown on stamped plans referenced within Condition 1 of this determination notice.

GENERAL CONDITIONS

Number	Condition																																																																																																														
1.	Approved Plans and supporting documentation Approved plans and supporting documentation Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise. <table><tr><th colspan="5">Approved plans</th></tr><tr><th>Plan number</th><th>Revision number</th><th>Plan title</th><th>Drawn by</th><th>Date of plan</th></tr><tr><td>A-005A</td><td>A</td><td>Basement 2 Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-005B</td><td>A</td><td>Basement 1 Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-005C</td><td>A</td><td>Ground Floor Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-005D</td><td>A</td><td>First Floor Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-005E</td><td>A</td><td>Second Floor Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-005F</td><td>A</td><td>Third Floor Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-005G</td><td>A</td><td>Fourth Floor Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-005H</td><td>A</td><td>Roof Floor Demolition Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-006</td><td>F</td><td>Site Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-007</td><td>C</td><td>Basement 3 Plan</td><td>Loucas Architects</td><td>09/10/2025</td></tr><tr><td>A-008</td><td>G</td><td>Basement 2 Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-009</td><td>I</td><td>Basement 1 Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-010</td><td>I</td><td>Ground Floor Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-011</td><td>G</td><td>First Floor Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr><tr><td>A-012</td><td>I</td><td>Second Floor Plan</td><td>Loucas Architects</td><td>09/09/2025</td></tr><tr><td>A-013</td><td>H</td><td>Third Floor Plan</td><td>Loucas Architects</td><td>09/09/2025</td></tr><tr><td>A-014</td><td>H</td><td>Fourth Floor Plan</td><td>Loucas Architects</td><td>09/09/2025</td></tr><tr><td>A-015</td><td>B</td><td>Fifth Floor Plan</td><td>Loucas Architects</td><td>09/09/2025</td></tr><tr><td>A-016</td><td>B</td><td>Sixth Floor Plan</td><td>Loucas Architects</td><td>09/09/2025</td></tr><tr><td>A-017</td><td>G</td><td>Roof Plan</td><td>Loucas Architects</td><td>25/10/2024</td></tr></table>	Approved plans					Plan number	Revision number	Plan title	Drawn by	Date of plan	A-005A	A	Basement 2 Demolition Plan	Loucas Architects	25/10/2024	A-005B	A	Basement 1 Demolition Plan	Loucas Architects	25/10/2024	A-005C	A	Ground Floor Demolition Plan	Loucas Architects	25/10/2024	A-005D	A	First Floor Demolition Plan	Loucas Architects	25/10/2024	A-005E	A	Second Floor Demolition Plan	Loucas Architects	25/10/2024	A-005F	A	Third Floor Demolition Plan	Loucas Architects	25/10/2024	A-005G	A	Fourth Floor Demolition Plan	Loucas Architects	25/10/2024	A-005H	A	Roof Floor Demolition Plan	Loucas Architects	25/10/2024	A-006	F	Site Plan	Loucas Architects	25/10/2024	A-007	C	Basement 3 Plan	Loucas Architects	09/10/2025	A-008	G	Basement 2 Plan	Loucas Architects	25/10/2024	A-009	I	Basement 1 Plan	Loucas Architects	25/10/2024	A-010	I	Ground Floor Plan	Loucas Architects	25/10/2024	A-011	G	First Floor Plan	Loucas Architects	25/10/2024	A-012	I	Second Floor Plan	Loucas Architects	09/09/2025	A-013	H	Third Floor Plan	Loucas Architects	09/09/2025	A-014	H	Fourth Floor Plan	Loucas Architects	09/09/2025	A-015	B	Fifth Floor Plan	Loucas Architects	09/09/2025	A-016	B	Sixth Floor Plan	Loucas Architects	09/09/2025	A-017	G	Roof Plan	Loucas Architects	25/10/2024
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	A-060	E	Adaptable & Livable Unit Details – 01	Loucas Architects	25/10/2024
	A-061	E	Adaptable Unit Details – 02	Loucas Architects	25/10/2024
	A-062	E	Livable Unit Details – 01	Loucas Architects	25/10/2024
	A-063	E	Livable Unit Details – 02	Loucas Architects	25/10/2024
	A-020	H	Elevations	Loucas Architects	25/10/2024
	A-021	H	Elevations	Loucas Architects	26/09/2024
	A-022	F	Elevations	Loucas Architects	25/10/2024
	A-023	F	Streetscape Elevations	Loucas Architects	25/10/2024
	A-030	F	Section 1 and Driveway Section	Loucas Architects	08/09/2025
	A-031	I	Section 2	Loucas Architects	08/09/2025
	A-032A	A	Detailed Section 02	Loucas Architects	05/09/2025
	A032	D	Detailed Section	Loucas Architects	25/10/2024
In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails. In the event of an inconsistency between the approved plans of determination notice no. DA-779/2020, the approved plans of this consent prevail. 1.101.S Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.					
2.	Design Amendments Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans (stamped by Council) and supporting documentation: a. The blank wall along the north-eastern elevation is to incorporate an interim feature wall treatment (mural), and must be submitted and designed to the satisfaction of Council. b. Units A603 and A604 are to incorporate operable skylights. 1.102.S Condition reason: To ensure the orderly development of land.				
3.	Acoustic Report The acoustic report submitted in support of this application prepared by Anavs-Acoustic Noise & Vibration Solutions P/L, titled 'Acoustic Report, Part 1 – Traffic Noise Assessment (Noise Break In), Part 2 – Assessment of Environmental Noise Impact (Noise Break Out) For the proposed development at No. 221-235 & 241-247A Home Street & No. 208 Wardell Road, Earlwood, reference number: 2020-092 Rev.5, dated October 28, 2024 and all the				

	recommendations stated within the report, form part of the development consent. The principal certifier shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above-mentioned acoustic report have been implemented and that the relevant noise criteria have been satisfied prior to the issue of any occupation certificate. A copy of the report is to be submitted to Council prior to the issue of any occupation certificate. Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
4.	Modification of DA-779/2020 Pursuant to section 4.17(1)(b) of the <i>Environmental Planning & Assessment Act 1979</i>, development consent DA-779/2020 is modified as provided in Annexure A. For this modification to take effect, the requirements of s67 of the <i>Environmental Planning & Assessment Regulation 2021</i> need to be followed (i.e. a written notice to the consent authority for modification of Development Consent DA-779/2020 as per the modifications shown in this consent. In the event that the requirements of s67 are not met and the modification does not take effect, this consent does not operate. Condition reason: To ensure consistency between consents.
5.	Duty to Report Contamination If the Duty to Report contamination to the NSW EPA under Section 60 of the <i>Contaminated Land Management Act 1997</i> is triggered, Council must be notified within seven (7) days of the notification to the NSW EPA. Condition reason: To ensure compliance with the relevant New South Wales legislation.
6.	Commercial Units - Separate Approval No approval is granted or implied for the use of any retail and commercial tenancies. Separate development consent is to be obtained for the use of these premises, unless the use qualifies as 'exempt development'. Condition reason: To ensure compliance with the relevant New South Wales legislation.

DEMOLITION WORK

7.	Demolition Any demolition must be undertaken in accordance with all the following: a. Written notice must be issued to adjoining residents a minimum of seven (7) days before the commencement of demolition advising of the commencement date, b. Written notice must be issued to Council for inspection a minimum of (7) days before the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor, c. Inspections being undertaken by Council including: i. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before demolition work commencing, and
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	ii. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice, d. Payment of an inspection fee at Council's current rate must be paid before inspection. Council requires 48 hours' notice to carry out an inspection, e. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours, f. All demolition work must be carried out in accordance with Australian Standard 2601 – 'The Demolition of Structures', g. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal, h. An asbestos clearance certificate issued under the Work Health and Safety Act 2011 must be submitted to Council after the completion of demolition work, i. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority, j. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal, k. Adhere to the requirements stipulated in the approved Waste Management Plan, and l. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday. A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work. 3.201 Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
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BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

8.	Development Contributions, Section 7.11 Development Contributions of \$364,476.39 must be paid for this development before the issue of any construction certificate. The contributions are levied under Canterbury Bankstown Local Infrastructure Contributions Plan 2022 and Section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i>. The contributions will be used to provide, extend or augment public amenities or public services required due to additional demand for these facilities created by the new development. The development contribution will be allocated to the following purposes under the contributions plan: <table border="1" data-bbox="434 1697 1187 1890"> <thead> <tr> <th>Category</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Open Space and Recreation facilities</td><td>\$230,859.23</td></tr> <tr> <td>Access and Public Domain Facilities</td><td>\$65,033.71</td></tr> <tr> <td>Community and Cultural Facilities</td><td>\$63,199.37</td></tr> <tr> <td>Plan Management & Administration</td><td>\$5,384.08</td></tr> <tr> <td>Total</td><td>\$364,476.39</td></tr> </tbody> </table>	Category	Amount	Open Space and Recreation facilities	\$230,859.23	Access and Public Domain Facilities	\$65,033.71	Community and Cultural Facilities	\$63,199.37	Plan Management & Administration	\$5,384.08	Total	\$364,476.39
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	Indexing of the contribution amount to be paid: The development contribution payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have occurred since the "Consent to operate from date" which appears on the front page of this Determination Notice. No construction certificate is to be issued and no construction is to commence until payment of development contributions. The contribution must be paid to Council before the issue of any construction certificate. Construction of the development may NOT commence until the development contributions are paid. A copy of the development contributions plan is available for inspection on Council's website and at Council's Administration offices in Bankstown and Campsie. NOTE: <u>Development contribution amounts are non-refundable if you do not proceed with your development.</u> 2.101 Condition reason: To ensure compliance with the relevant New South Wales legislation.				
9.	Housing and Productivity Contribution Before the issue of the first construction certificate issued as part of this consent, the housing and productivity contribution (HPC) set out in the table below is required to be made. <table border="1" data-bbox="403 1021 1272 1084"> <thead> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Housing and productivity contribution (base component)</td><td>\$237,867.83</td></tr> </tbody> </table> The HPC must be paid using the NSW planning portal. At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order). The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees. The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution. The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025. Condition Reason: To require contributions towards the provision of regional infrastructure.	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$237,867.83
Housing and productivity contribution	Amount				
Housing and productivity contribution (base component)	\$237,867.83				
10.	Payment of Fees Before Issuing a construction certificate, all the following must be paid to the relevant authority/entity and written evidence of these payments must be provided to the certifier. - Levies - Bonds - Contributions				

	d. Inspection fees. 2.103.S Condition reason: To ensure compliance with the relevant New South Wales legislation.
11.	Long Service Levy Before the issue of the relevant construction certificate, payment of the long service levy is required, under the <i>Building and Construction industry Long Service Payments Act 1986</i>, section 34. Evidence of the payment is to be provided to the Certifier. Payment can be calculated using the Levy Portal Calculator at https://longservice.force.com/bci/s/levy-calculator. Payment must be made via the Long Service Levy Portal at https://www.longservice.nsw.gov.au. 2.104.S Condition reason: To ensure compliance with the relevant New South Wales legislation.
12.	Construction Cranes May Require Separate Approval Separate approval must be sought (where required) under the relevant Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height above the proposed development and consequently, may require separate approval under the Regulations. It is advisable that approval to operate equipment (i.e. cranes) be obtained before the issue of any construction certificate. 2.105 Condition reason: To ensure adequate approval of crane use.
13.	Car Parking Details Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 – '<i>Parking Facilities - Off-Street Carparking</i>' and Council's development control plan. 2.110.S Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.
14.	Small Car Parking The design and layout of all off-street small car parking spaces must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - Parking facilities Part 1: Off-street car parking. The details must be submitted and approved by the certifier before a construction certificate being issued. Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
15.	Bicycle Parking Spaces The minimum number of bicycle parking spaces is to be provided for the development must comply with the below: a. Twenty-four (24) Residential b. Thirteen (13) Commercial. Note: The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 – '<i>Parking Facilities</i>' Part 3: Bicycle Parking Facilities and '<i>Austroads Bicycle Parking Facilities: Guidelines for Design and Installation.</i>' 2.11

	Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.
16.	Submit Plans to Sydney Water The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™. 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™. Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator. 2.202.S
	Condition Reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.
17.	BASIX Certificate The development must be carried out in accordance with the commitments shown on the submitted BASIX Certificate. The BASIX commitments must be reflected in the construction certificate plans and specifications. Any proposed changes to the BASIX commitments after the construction certificate has been issued will require an updated BASIX Certificate. 2.206
	Condition reason: To ensure compliance with the relevant New South Wales legislation.
18.	Utilities and Services Before the issue of the relevant construction certificate, the consent holder must submit the following written evidence of service provider requirements to the certifier: - a letter of consent from the relevant electricity provider demonstrating that satisfactory arrangements can be made for the installation and supply of electricity; and - a response from the relevant water authority as to whether the plans proposed to accompany the application for a construction certificate would affect any of the relevant water authority infrastructure, and whether further requirements need to be met; and a letter of consent from the relevant telephone and broadband authority demonstrating that satisfactory arrangements can be made for the installation and supply of telephone and internet; and - other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them. 2.207
	Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies.
19.	Mobility Access The building must be designed and constructed to provide access and facilities for people with a physical disability in accordance with the Building Code of Australia.

	If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council through a modification application before a construction certificate being issued. 2.208 Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
20.	Adaptable Units Before the issue of the relevant construction certificate, the consent holder must ensure a report from a suitably qualified consultant is prepared and demonstrates, to the certifier's satisfaction, that any adaptable dwellings specified in the approved plans or supporting documentation comply with the provisions of AS 4299 – 'Adaptable Housing Standards'. 2.210.S Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
21.	Erosion and Sediment Control Plan Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier: a. Council's development control plan, b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). The consent holder must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction. 2.211.S Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.
22.	Mechanical Ventilation The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and 2 – 'The Use of Ventilation and Air- Conditioning in Buildings – Mechanical Ventilation in Buildings'. Details of any mechanical ventilation and/or air-conditioning system complying with AS1668.1 and 2 – 'The Use of Ventilation and Air- Conditioning in Buildings – Mechanical Ventilation in Buildings', the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person and certified in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, to the satisfaction of the certifier before the issue of a construction certificate. 2.214 Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
23.	Combustible Cladding The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Before the issue of a construction certificate and occupation certificate the certifier must:

	a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built. 2.216
	Condition reason: To ensure compliance with the BCA.
24.	Retaining Walls 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. a. 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 an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the certifier before the issue of the construction certificate. b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries. 2.301
	Condition reason: To ensure works undertaken are carried out in a safe manner in accordance with relevant policies.
25.	Apply for Work Permit for Engineering Works The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense: a. Repair of any damage to the public road including the footway occurring during building works, and b. 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 consent holder should make application and payment for the Work Permit at least twenty-one (21) days before the information being required and before the issue of the construction certificate. The Work Permit must be approved before any works commencing within the Council Road Reserve or on Council's assets. 2.302
	Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement/ parking.
26.	Basement Anchoring The basement of the development is located adjacent to a Council public road reserve. Separate approval and Work Permit is to be obtained from Council for any temporary or permanent anchoring works under Council's public road. 2.303

	Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.
27.	Works Requiring a Work Permit As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the <i>Roads Act 1993</i> and/or Section 68 of the <i>Local Government Act 1993</i>, Council requires the consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the 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' - Dig up, disturb, or clear the surface of a public footway or public road, - Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road, - Connect a road (whether public or private) to a classified road, - Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road, - Install utilities in, under or over a public road, - Pump water into a public footway or public road from any land adjoining the public road, - Erect a structure or carry out a work in, on or over a public road, - Require a work zone on the public road for the unloading and or loading of vehicles, - Pump concrete from within a public road, - Stand a mobile crane within a public road, - Store waste and recycling containers, skips, bins and/or building materials on any part of the public road, - The work is greater than \$25,000, and - Demolition is proposed. The consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress. The consent holder shall ensure that the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars and shall provide proof of the policy to Council, before commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works. 2.304 Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
28.	Finished surface levels Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council. 2.305

	Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
29.	Driveway Design The design, layout, line marking and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued. Furthermore, for internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series. 2.313 Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
30.	Pavement Design 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 a qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the certifier for approval before the issue of a construction certificate. 2.314 Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
31.	Work Vehicle Route 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 consent holder shall nominate the route for approval by Council before commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by consent holder specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council before release of any construction certificate. All damage must be rectified before the issue of any occupation certificate. 2.402 Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement/ parking.
32.	Sight Triangles on Plans Sight triangles are to be marked on relevant plans, being provided at the intersection of the driveway and the property boundary in accordance with AS 2890.1: 'Figure 3.3 – Minimum Sight Lines for Pedestrian Safety'. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. Any structures, plantings or fencing within these triangles is to be a maximum height of 600mm to ensure sight lines are kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate. 2.406

	Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.
33.	Waste Management Plan Before the issue of a construction certificate, a Waste Management Plan (WMP) must be prepared and provided to the certifier. The plan must include the following matters: The plan must be prepared - in accordance with: - the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and - a development control plan that provides for waste management that applies to the land on which the work or the clearing of vegetation is carried out, and - include the following information— - the contact details of the person removing waste, - an estimate of the type and quantity of waste, - whether waste is expected to be reused, recycled or sent to landfill, - the address of the disposal location for waste. A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out. 2.502
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
34.	Plans to Include Bin Storage Area The construction certificate plans shall include details of the waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building or screened from the street by dense landscaping. 2.503
	Condition reason: To ensure compliance with the relevant Canterbury-Bankstown policy.
35.	Carpark Exhaust Before the issue of a construction certificate, the certifier is to ensure that all carpark exhaust does not directly vent into private or communal open space. 2.611
	Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
36.	Landscaping Plan A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Council's DCP 2023 and must include the following features, notations and specifications: - The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features, - Details of earthworks and soil depths, including mounding and retaining walls and planted boxes, - The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), - Details of drainage and watering systems (if any),

	e. 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 plan, f. 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), and g. All scheduled plant stock shall be pre-ordered, before issue of construction certificate or 3 months before the commencement of landscape works, whichever occurs sooner, for the supply to the site on time for installation. Written confirmation of the order shall be provided to Council before issue of any construction certificate. The order confirmation shall include name, address and contact details of supplier; and expected supply date. 2.701
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
37.	Landscape Management A site wide landscape management plan is to be submitted to and approved by the certifier before the issue of a construction certificate. The plan is to demonstrate who is responsible for and how the landscape features will be installed and detail the responsibility of ongoing maintenance of the landscaping. 2.705
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
38.	Council's Tree Management Order Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution. 2.703
	Condition reason: To ensure compliance with the relevant Canterbury Bankstown policy.
39.	Design Verification SEPP (Housing) 2021 A construction certificate shall not be issued until design verification from a qualified designer has been received. The design verification is a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development of which development consent was granted, having regard to the design quality principles set out in Schedule 9 of SEPP (Housing) 2021. 2.901
	Condition reason: To ensure compliance with the relevant New South Wales legislation.
40.	No Air conditioning units visible No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall: - Not be located on awnings or attached to the face of the building, - Not be located on roofs in such a way that it is visible from any street, footpath or park, - Be visually screened if located 1.8 metres above ground level in other locations, and - Wiring shall be fully concealed.

	All construction certificate documentation is to demonstrate compliance with these requirements. 2.902 Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
41.	Air conditioning units – BASIX requirements The location of any air-conditioning and hot water units and associated infrastructure must be located to ensure that they are not visible from the street, and that they do not result in a non-compliance with the relevant built form controls and private open space controls contained within the Apartment Design Guide. Confirmation from a suitably qualified architect that the BASIX commitments do not compromise the design guidance as contained within the Apartment Design Guide must be provided to the certifier before the issue of a construction certificate. 2.903 Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
42.	Hydrant boosters on plans All hydrant boosters and associated services and shield walls are to be contained within cabinets and / or designed to match the appearance of the main structure of the development. 2.904 Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
43.	Rooftop equipment All roof-top plant and associated equipment must be located within the approved building envelope and must not be visible from the public domain. 2.905 Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
44.	Construction Certificate A construction certificate must be obtained before work commences. A construction certificate issued for this consent must ensure consistency with conditions 5.7 – 5.52 of Determination Notice No. DA-779/2020. Condition reason: To ensure consistency between consents.

BEFORE BUILDING WORK COMMENCES

45.	Certifier details A construction certificate is required for the erection of a building in accordance with this Determination Notice. This Determination Notice does not authorise building work until a principal certifier has been appointed as the principal certifier for the work by (or with the approval of) the consent holder. The following requirements apply before the commencement of building work in accordance with this Determination Notice: a. the principal certifier has, no later than two (2) days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
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	b. the principal certifier has, no later than two (2) days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work, c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case, d. the consent holder, if not carrying out the work as an owner-builder, has: - 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 - notified the principal certifier of the appointment, and - unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work, e. the consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building. 3.202
	Condition reason: To ensure compliance with the relevant New South Wales legislation.
46.	Compliance with the Determination Notice for DA-779/2020 Conditions of consent numbers 6.4 – 6.15 of DA-779/2020 must be adhered to or completed before building works commence. Condition reason: To ensure consistency between consents.

DURING BUILDING WORK

47.	Unexpected Finds In the instance 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 an NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information, 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. Condition reason: To ensure that the development complies with Council's Environmental Health Policies.
48.	Waste Classification and Disposal of Contaminated Soil and Materials All soils and material, liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> and related guidelines, the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal. The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the principal certifier before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an occupation certificate.

	All waste material must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an occupation certificate. All waste must be transported by a contractor licensed to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site. Condition reason: To ensure compliance with the relevant New South Wales legislation.
49.	Demolition and Construction Waste All waste material generated during demolition and construction must be disposed of at an appropriately licensed waste facility for the specific waste. All waste must be transported by a contractor licensed to transport the specific waste, and in vehicles capable of carting the waste without spillage and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site. Condition reason: To ensure compliance with the relevant New South Wales legislation.
50.	Disposal of Excavated Soil All 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. All waste material for disposal to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an occupation certificate. Condition reason: To ensure compliance with the relevant New South Wales legislation.
51.	Importation of Fill 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 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. Condition reason: To ensure compliance with the relevant New South Wales legislation.
52.	Waste Storage and Disposal – Multistorey Premises The waste storage room must be provided with smooth and impervious walls and floors and coved at the intersection of the floor and walls. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Waste storage rooms must be well ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning. Open waste storage areas must be appropriately covered and bunded. The ground must be paved with impervious material and must be graded and drained to a wastewater disposal system according to Sydney Water's requirements. A hose tap connected to a water supply must be provided.

	All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the <i>Protection of the Environment Operations Act 1997</i>. All waste generated must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request. Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
53.	Excavation – Water All excavations must be kept free from the accumulation of water. Prior approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility. Condition reason: To protect the natural environment of the development site and adjoining lands.
54.	Compliance with the Determination Notice for DA-779/2020 Conditions of consent numbers 7.1 – 7.31 of DA-779/2020 must be adhered to during all construction works. Condition reason: To ensure consistency between consents.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

55.	Occupation certificate The occupation or use of the building must not commence unless an occupation certificate has been issued. 5.201 Condition reason: To ensure compliance with the relevant New South Wales legislation.
56.	Affordable Housing Registration Before to the issue of an occupation certificate, evidence is to be submitted to Council demonstrating that a restriction has been registered against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i>, that will ensure that the following requirements are met: a) For 15 years from the date of the issue of the occupation certificate, for the following seventeen (17) units: (i) C1.01 (ii) C1.02 (iii) C1.03 (iv) C1.04 (v) C1.05 (vi) C2.01 (vii) C2.02 (viii) C2.03 (ix) C3.01 (x) C3.02 (xi) C3.03 (xii) C4.01 (xiii) C4.02 (xiv) C4.03 (xv) C5.01

	(xvi) C5.02 (xvii) C5.03. That these units must be used for the purpose of affordable housing, and each of these units must be managed by a registered community housing provider. b) The occupation and management of these units must be in accordance with any other relevant requirement of State Environmental Planning Policy (Housing) 2021. Condition reason: To ensure compliance with stamped plans and relevant legislation.
57.	Validation Report Prior to the issue of any occupation certificate the principal certifier shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the acoustic report prepared by Anavs-Acoustic Noise & Vibration Solutions P/L, titled 'Acoustic Report, Part 1 – Traffic Noise Assessment (Noise Break In), Part 2 – Assessment of Environmental Noise Impact (Noise Break Out) For the proposed development at No. 221-235 & 241-247A Home Street & No. 208 Wardell Road, Earlwood, reference number: 2020-092 Rev.5, dated October 28 2024 have been implemented and that the relevant noise criteria have been satisfied. A copy of the report is to be submitted to Council prior to the issue of any occupation certificate. Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
58.	Allocation of car parking spaces Two-hundred-and-twenty-four (224) off-street car spaces being provided in accordance with the submitted plans. This shall comprise: - One-hundred-and-twenty-eight (128) residential spaces - Fourteen (14) residential visitor spaces - Sixty-eight (68) business / commercial spaces - Fourteen (14) business / commercial staff spaces. Note: Twelve (12) of the required car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements. 5.106 Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
59.	Accessible car allocations For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building. 5.107 Condition reason: To ensure orderly development of land.
60.	Lighting must be provided to entries Lighting must be provided to the entries of the dwellings, driveways and parking areas to promote a high level of safety and security at night and during periods of low light. All lighting must be hooded, shielded or directed away from neighbouring dwellings to minimise glare and associated nuisances to residents. 5.906

	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
61.	Design of lighting Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – 'The Control of the Obtrusive Effects of Outdoor Lighting'. 5.907 Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites and to ensure compliance with the relevant Australian Standard and National Construction Code.
62.	Car Wash Bay – Multistorey Residential The designated car wash bay(s) must be designed and constructed to ensure that wastewater is discharged to the sewer in accordance with the requirements of Sydney Water. Condition reason: To ensure compliance with the relevant Australian Standard and National Construction Code.
63.	Design principles SEPP (Housing) 2021 Before the issue of any occupation certificate a design verification from a qualified designer shall be submitted to the principal certifier. The design verification is a statement in which the qualified designer verifies that the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of SEPP (Housing) 2021. 5.908 Condition reason: To ensure compliance with the relevant New South Wales legislation.
64.	Compliance with the Determination Notice for DA-779/2020 Conditions of consent numbers 9.2 – 9.31 of DA-779/2020 must be adhered to or completed before building works commence. Condition reason: To ensure consistency between consents.

OCCUPATION AND ONGOING USE

65.	Further Acoustic Assessment Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (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. Condition reason: To protect the amenity of the surrounding area.
66.	Compliance with Noise Control Legislation The applicant must ensure that all activities within the premises comply with the relevant sections of the <i>Protection of the Environment Operations Act 1997</i> and Regulations and the Noise Policy for Industry (NSW EPA, 2017).

	Condition reason: To protect the amenity of the surrounding area.
67.	Vibration 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). Condition reason: To protect the amenity of the surrounding area.
68.	General Amenity 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, wastewater, waste products, grit, oil or other harmful products. Condition reason: To protect the amenity of the surrounding area.
69.	Communal facilities The communal facilities must be available for the use all residents of the building, and must be operated as common property on any strata subdivision of the site, with no exclusive use rights given. 7.104 Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
70.	Communal Areas The use of the outdoor communal area(s) is subject to the following restrictions: i. Hour of use is limited to 7.00am to 10.00pm, Monday to Saturday and 8.00am to 10.00pm, Sunday and Public Holidays, ii. Limited to a maximum of 10 people at any one time, and iii. Music and other amplified sound are not permitted. Condition reason: To protect the amenity of the surrounding area.
71.	POEO – General Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the <i>Protection of the Environment Operations Act 1997</i> and Regulations. Condition reason: To ensure compliance with the relevant New South Wales legislation.
72.	Use of Car Parking Spaces and Driveways The car parking spaces, driveways and manoeuvring areas must be used solely for vehicular access and for the parking of vehicles associated with the use of the premises. The car parking spaces, driveways and manoeuvring areas must not be used for the manufacture, storage or display of goods, materials or any other equipment (includes mobile food vending vehicles). Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.
73.	General Amenity 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, wastewater, waste products, grit, oil or other harmful products. Condition reason: To protect the amenity of the surrounding area.

74.	Parking spaces
	No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building, and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats. 7.106
	Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
75.	Use of roof
	No approval is granted or implied for the use of any roof element for any purpose other than for gaining access to carry out maintenance or repairs. 7.114
	Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
76.	Car parking not for storage
	The approved 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. 7.301
	Condition reason: To ensure the development is built and remains consistent with approved plans and documentation and to provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.
77.	Waste generated on site
	All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the <i>Protection of the Environment Operations Act 1997</i> . All waste generated shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request. 7.504
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
78.	Stormwater Detention
	The on-site stormwater detention storage system within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council. 7.302
	Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.
79.	Maintenance of wastewater and stormwater treatment device
	During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable). 7.303.S
	Condition reason: To protect existing public and private infrastructure and building works during demolition, construction and ongoing use of the development.
80.	Enter / Exit in forward direction
	All vehicles associated with the development are to enter and exit the site in a forward direction. 7.402

	Condition reason: To provide and maintain orderly and safe areas for vehicular and pedestrian movement / parking.
81.	Waste Management Plan The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out. 7.501 Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
82.	Lighting Any lighting of the premises must be installed in accordance with AS/NZS 4282-2019, 'Control of the obtrusive effects of outdoor lighting', to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area. Condition reason: To protect the amenity of the surrounding area.
83.	Compliance with the Determination Notice for DA-779/2020 Conditions of consent numbers 10.1 – 10.23 of DA-779/2020 must be adhered to or completed before building works commence. Condition reason: To ensure consistency between consents.

- END -

Canterbury Bankstown Local Planning Panel - 08 December 2025

ITEM 3	2 Ellesmere Street, Panania
	Alterations and additions to a newly built structure in accordance with approved Complying Development Certificate (CDC 20210284) and use as a two-storey detached secondary dwelling and attached garage
FILE	DA-1027/2025 – Bunya / Revesby Ward
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	11 September 2025
APPLICANT	Vitale Design Pty Ltd
OWNERS	Matthew Gerard O'Neill
ESTIMATED VALUE	\$42,900.00
AUTHOR	Planning

REPORT

This application is referred to Council's Local Planning Panel (the Panel) in accordance with Schedule 2 of the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consents*, issued by the Minister for Planning and Public Spaces under section 9.1 of the *Environmental Planning and Assessment Act 1979*. The application seeks consent for a development that contravenes a development standard imposed by an environmental planning instrument by more than 10%.

Development Application DA-1027/2025 proposes alterations and additions to a newly built structure in accordance with approved Complying Development Certificate (CDC 20210284) and use as a two-storey detached secondary dwelling and attached garage.

DA-1027/2025 has been assessed having regard to the matters for consideration contained in section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against the provisions contained within *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy (Sustainable Buildings) 2022*, *State Environmental Planning Policy (Housing) 2021*, *State*

The development fails to comply with several key standards and controls, in particular, the application fails to comply with Clause 4.3(2B) and Clause 4.4 of the Canterbury Bankstown Local Environmental Plan (LEP) regarding maximum wall height and floor space ratio. The development proposes a wall height of 5.5m which is an 83% departure to the LEP standard and an FSR of 0.53:1 which is a departure of 5.8%. The development also fails to comply with several development control plan (DCP) controls regarding solar access and car parking. The development application is not accompanied by any Clause 4.6 variation requests.

As such, the proposal demonstrates an overdevelopment of the site and a poor outcome for residents. Approval of the proposed development would not be in the public interest, as the proposed development is inconsistent with the objectives of both the non-complying development standards and the R2 zone.

The application was neighbour-notified and advertised for a period of 14 days, from 19 September 2025 to 3 October 2025. Two (2) unique objections were received during this period, which raised concerns relating to the following issues:

- Unlawful commencement of works.
- Inappropriate setbacks.
- Excessive wall height.
- Stormwater management.
- Solar access.
- Visual privacy.
- Inadequate landscaping.

The concerns raised by the residents have been considered in the body of the report.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

The matter being reported has no direct financial implications.

RECOMMENDATION

It is recommended that Development Application DA-1027/2025 be **REFUSED** for the reasons set out in Attachment 2.

ATTACHMENTS

1. Section 4.15 Assessment Report
2. Reasons for Refusal

DA-1027/2025 ASSESSMENT REPORT

SITE AND LOCALITY DESCRIPTION

The subject site is legally described as Lot 35 in DP 207087 and is more commonly known as 2 Ellesmere Street, Panania. The site is a regular rectangular shaped allotment that is currently zoned R2 Low Density Residential under the Bankstown Local Environmental Plan 2023.

The site contains a two-storey dwelling house, an inground swimming pool, and a partially constructed two-storey structure with a footprint of approximately 50m² located toward the rear of the principal dwelling. The surrounding development consists of single dwellings and dual occupancy developments, which are consistent with the typology typically expected in the R2 zone.

The site has an area of 566.5m² with a frontage of 15.24m to Ellesmere Street.

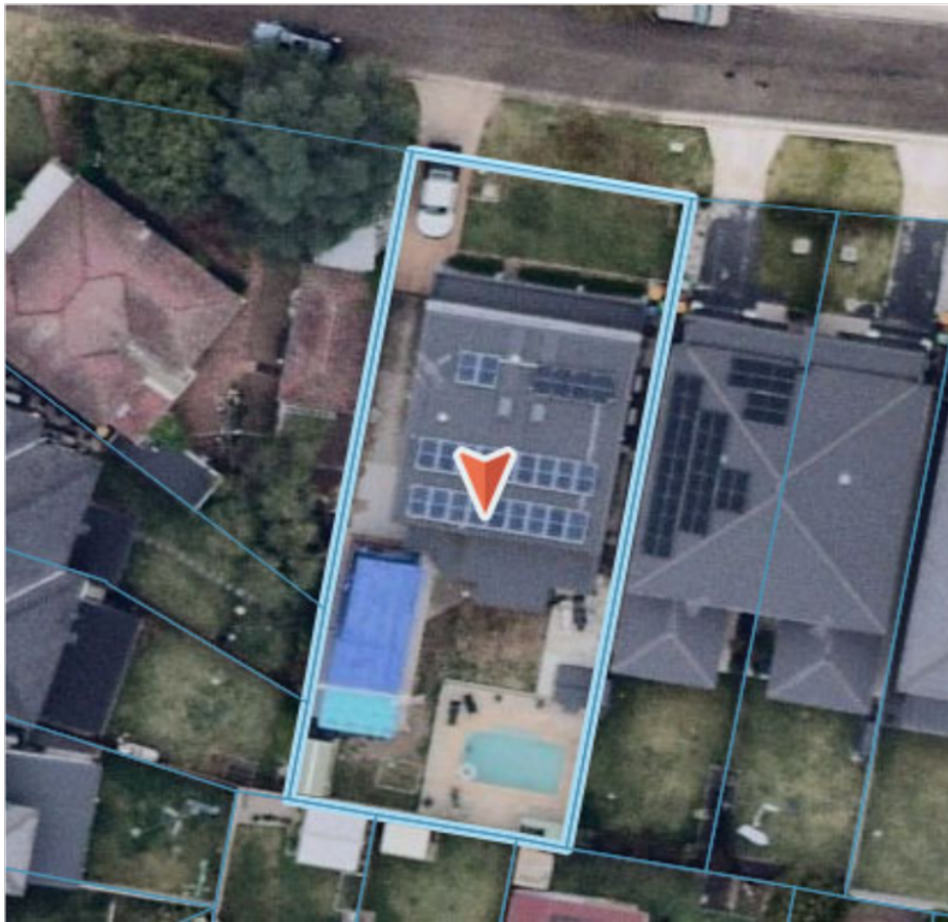


Figure 1: Aerial of subject site in blue **Source:** NearMap 2025



Figure 2: Existing structure at rear of site **Source:** Rockeman Town Planning

PROPOSED DEVELOPMENT

Development Application DA-1027/2025 proposes construction and use of a two-storey detached secondary dwelling with garage, and minor alterations to the existing patio of the principal dwelling.

Error in description of proposed development

The applicant has described the proposed development on the application form as:

Application for use of secondary dwelling and garage. Alterations and additions to the newly built structure including cladding, windows, doors, roof, linings, fittings and finishes in accordance with approved CDC 20210284.

This contradicts the applicant's Statement of Environmental Effects which is sub-titled "Construction of a new detached garage and secondary dwelling" and specifically seeks consent for the following:

- a. *Construction of a detached garage within the western portion of the rear yard;*
- b. *Construction of an attached secondary dwelling to the proposed garage – attached to the rear and above the garage structure with a flat roof form;*

- c. *Associated internal and external fittings and structures as described on the architectural plans; and*
- d. *Alterations to the existing covered deck/patio for the principal dwelling.*

Nevertheless, this description is misleading as it states that the development application seeks consent for the construction of a detached garage and secondary dwelling. However, construction has already commenced and as such retrospective approval cannot be granted for works that have already been carried out. This is only further confirmed on page 3 of the submitted Statement of Environmental Effects which states:

A stop work order dated 08 August 2025 has been issued to the owner of the lot because the development of a secondary dwelling above the existing garage has not been constructed in accordance with the approved plans under CDC023/0263 approved on 11/01/2023.

Additionally, there are multiple references made within the application which refer to the structure as an “attached” secondary dwelling. This is also erroneous as the definition of *secondary dwelling* in the Canterbury Bankstown Local Environmental Plan 2023 (LEP) reads as follows:

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

As such, the proposed secondary dwelling is considered detached as it is built, separate from the principal dwelling.

BACKGROUND

On 8 August 2025 Council issued a stop work order to the owner of the land as the development was not being constructed in accordance with the approved plans under CDC2023/0263 approved on 11 January 2023.

A Council inspection revealed that the existing garage had been demolished, and timber framework had been erected for a secondary dwelling above a new timber-framed garage. These works were not in accordance with the approved plans issued under Complying Development Certificate (CDC2023/0263)

A review of Council records revealed no consent had been granted for the demolition of the existing garage located along the western side of the property.

The building works are not exempt development under State Environmental Planning Policy (Exempt and Complying Codes) 2008, are not exempt under the Canterbury

Bankstown Local Environmental Plan 2023 and cannot be constructed without prior planning approval.

Subsequently, the subject development application was lodged with Council on 11 September 2025 to, amongst other things, legalise the use of the structure, while a Building Information Certificate (BIC) application was concurrently lodged, seeking to regularise the built structure.

On 24 September 2025, Council wrote to the applicant explaining the reasons why it was unable to support the subject development application.

Council has not received any response from the applicant to our correspondence.

On 12 September 2025, the applicant lodged a Class 1 appeal with the Land and Environment Court against Council's Development Control Order (DCO).

On 23 October 2025, the applicant lodged a Class 1 appeal with the Land and Environment Court against Council's deemed refusal of the Development Application.

Both the DCO and the DA will be heard together by the Land and Environment Court.

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* must be considered. In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Housing) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Sustainable Buildings) 2022,
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP),
- Canterbury Bankstown Development Control Plan 2023 (CBDCP).

SECTION 4.15 ASSESSMENT

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

Environmental planning instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 Water Catchments

The site is located within the catchment area of the Georges River and is subject to Chapter 6 of the Biodiversity and Conservation SEPP 2021.

The proposal is considered to be inconsistent with Council's requirement for the disposal of stormwater in the catchment, as the applicant fails to demonstrate that the effective disposal of stormwater can be achieved. Therefore, it cannot be considered that the proposed development will not have a significant impact upon the environment of the Georges River, either in a local or regional context. As such, the development is inconsistent with the aims, objectives and controls specified in the Biodiversity and Conservation SEPP 2021.

State Environmental Planning Policy (Housing) 2021

SEPP (Housing) 2021 applies to Canterbury Bankstown Council and to the erection of a new secondary dwelling or alterations/ additions to an existing structure to create a new dwelling. The subject application proposes works to which Chapter 3 Part 1 Secondary Dwellings applies. An assessment of Part 1 is provided in the table below:

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 CHAPTER 3 DIVERSE HOUSING PART 1 SECONDARY DWELLINGS (FORMER BANKSTOWN LGA)			
CLAUSE	REQUIREMENT/PROVISION	COMMENT	COMPLY
51 No subdivision	Development consent must not be granted for the subdivision of a lot on which development has been carried out under this Part	No subdivision has been proposed	Y
52 Development may be carried out with consent	Consent must not be granted unless- (a) No dwellings, other than the principal dwelling and the secondary dwelling will be located on the land, and (b) The total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under CBLEP 2023, and (c) The total floor area of the secondary dwelling is no more than 60m ² .	a) No other dwellings are on the site other than the principal dwelling and the proposed secondary dwelling. b) The total floor area of the principal and secondary dwelling exceeds the maximum permissible floor area with a proposed floor space ratio of 0.53:1. c) The total floor area of the secondary dwelling is 52.4sqm.	N
53 Non- discretionary development standards – the Act, s4.15	- For a detached secondary dwelling- a minimum site area of 450m², and - The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	Minimum site area complies (566.5sqm site). The proposed garage on site is not considered to service the principal dwelling as it is attached to the proposed secondary dwelling, as such there is no covered parking space on site for the principal dwelling.	N

State Environmental Planning Policy (Resilience and Hazards) 2021

This State Environmental Planning Policy aims to promote the remediation of contaminated land for the purposes of reducing risk to human health or any other aspect of the environment. The SEPP states that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated. If the land is contaminated, it must ascertain whether it is suitable in its contaminated state for the proposed use or whether remediation of the land is required.

The development site has a history of residential uses, and the development application seeks the continual use of the site for residential purposes. There is no indication that contamination is, or may be, present on the site.

The subject land has not been associated with any activities that may cause contamination and given its continual residential use, Council is satisfied that the development site is suitable for the proposed development in accordance with Clause 4.6(1) of SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy (Sustainable Buildings) 2022

In accordance with the Sustainable Buildings SEPP, a BASIX Certificate should accompany this application. No BASIX Certificate has been submitted as part of this application. As such, the development fails to comply with the requirements of the SEPP.

Canterbury Bankstown Local Environmental Plan (LEP) 2023

The following table sets out the relevant development standards and provisions of the Canterbury Bankstown Local Environmental Plan (LEP) 2023 that were taken into consideration in the assessment of the proposed development application.

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023		
CLAUSE	REQUIREMENT/PROVISION	COMMENT
1.2 Aims of Plan	This Plan aims to make local environmental planning provisions for land in Canterbury-Bankstown in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.	The proposed development is inconsistent with the relevant aims of the LEP. The proposed development does not achieve good urban design in terms of site layouts and building form as per Cl.1.2(j).
2.2 Zoning of land to which Plan applies	For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.	The zoning of the land is specified within the land zoning map as R2 Low Density Residential.
2.3 Zone objectives and Land	The consent authority must have regard to the objectives for development in a zone when determining a development	The proposal has been assessed as being inconsistent with the objectives of the zone. The proposed development adversely

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023		
CLAUSE	REQUIREMENT/PROVISION	COMMENT
Use Table	application in respect of land within the zone.	affects the living environment and amenity of the area with regard to visual bulk, solar access, fire safety and car parking.
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	No consent for demolition has been sought in this development application.
4.3 Height of buildings	A secondary dwelling located in zone R2 that is not attached to the principal dwelling must not exceed a 6m building height. The maximum wall height for a secondary dwelling that is not attached to the principal dwelling in zone R2 is 3m.	The proposed structure does not exceed 6m, however, the secondary dwelling has a proposed maximum wall height of 5.5m. A Clause 4.6 report has not been prepared by the applicant.
4.4 Floor space ratio	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map: 0.5:1.	Site – 566.5sqm GFA – 299.6sqm Principal dwelling– 247.2sqm Ground floor – 125.6sqm 1st Floor – 121.6sqm Secondary dwelling – 52.4sqm Ground floor – 33.9sqm 1st Floor – 18.5sqm The building will have a gross floor area of 299.6sqm, resulting in a floor space ratio (FSR) of 0.53:1, exceeding the permissible FSR by 5.8%. A Clause 4.6 report has not been prepared by the applicant.
4.6 Exception to development standards	Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that— (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.	The development application has not addressed Clause 4.6, and as such, Council cannot be satisfied that the applicant has demonstrated that compliance with the development standards is unreasonable or unnecessary.

An assessment of the development application revealed that the proposal fails to comply with the provisions contained within the Canterbury Bankstown Local Environmental Plan 2023 relating to wall height and floor space ratio. Further discussion is provided below in relation to the provisions contained within Clauses 4.3 and 4.4.

Clause 4.3 – Height of buildings

Clause 4.3 (2B) states that the maximum wall height for a secondary dwelling that is not attached to the principal dwelling in Zone R2 on land identified as “Area 1” on the Clause Application Map is 3m.

Clause 4.3(2D) defines “wall height” as the vertical distance between the ground level (existing) and the higher of –

- (a) *the underside of the eaves at the wall line, or*
- (b) *the top of the parapet or the flat roof.*

While the submitted architectural drawings are deficient in detail, in that they do not provide any reduced levels (RLs) for either the existing natural ground level or the roof line, Council is able to produce a vertical line measurement for the wall height of 5.5m based on the drawings provided. This wall height exceeds the maximum permitted wall height by 2.5m and represents a departure from the standard of 83%.

The applicant has not provided any justification for the departure as the development typology is incorrectly referred to as an ‘attached’ secondary dwelling in the Statement of Environmental Effects. As aforementioned, the proposed secondary dwelling is regarded as ‘detached’ as it is physically separated from the principal dwelling.

Clause 35B of the Environmental Planning and Assessment Regulation 2021 requires the applicant to prepare a document (written request) that sets out the grounds on which compliance with the development standard is unreasonable or unnecessary, and there are sufficient planning grounds to justify the contravention of the development standard. The development application was not accompanied by a written request for the proposed variation to Clause 4.3.

Notwithstanding the insufficient information required to consider the variation to the development standard, the following analysis of the potential impact of the non-compliance is provided below.

The objectives of Clause 4.3 are as follows:

- (a) *to establish the height of development consistent with the character, amenity and landform of the area in which the development will be located,*
- (b) *to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of 2 storeys in Zone R2,*
- (c) *to provide appropriate height transitions between development, particularly at zone boundaries,*

- (d) *to minimise overshadowing to existing buildings and open space,*
- (e) *to minimise the visual impact of development on heritage items and heritage conservation areas,*
- (f) *to support building design that contributes positively to the streetscape and visual amenity of an area.*

The relevant objectives are reproduced and considered below.

OBJECTIVE	COUNCIL'S ASSESSMENT RESPONSE
(a) To establish the height of development consistent with the character, amenity and landform of the area in which the development will be located	The proposed secondary dwelling features a maximum wall height of 5.5 metres, which is inconsistent with the intended typology and character of secondary dwellings. This non-compliance adversely impacts the amenity of both the principal dwelling and neighbouring properties, particularly in relation to visual bulk, fire safety, overshadowing, and parking provisions.
(d) To minimise overshadowing to existing buildings and open space	The proposed development results in overshadowing of the private open space on the subject site and does not achieve the minimum requirement of three hours of direct sunlight to at least 50% of that space between 9:00am and 5:00pm at the equinox.
(f) To support building design that contributes positively to the streetscape and visual amenity of an area.	Secondary dwellings are intended to be constructed in conjunction with a principal dwelling, remaining subservient in scale and not visually intrusive. The proposed development does not align with this intent, as it stands at nearly twice the height envisioned by the relevant planning clause and is prominently visible from adjoining properties. As a result, the dwelling fails to contribute positively to the streetscape and the visual amenity of the surrounding area.

Accordingly, the development does not satisfy the underlying intent of the standard, as has been made clear by the inability to demonstrate consistency with the relevant objectives of Clause 4.3. Approval of the development in its current form would undermine the strategic intent of the planning controls and set an undesirable precedent for future development. In the absence of a written submission under Clause 4.6 of the LEP, the consent authority has no power to grant consent to the proposed development.

Clause 4.4 – Floor space ratio (FSR)

Council has calculated that the proposed development will have a gross floor area of 299.6sqm which translates to a Floor Space Ratio (FSR) of 0.53:1 and exceeds the maximum permissible FSR of 0.5:1 by 16.35sqm or 5.8%.

Like the previous non-compliance, the applicant has not addressed this departure. The application incorrectly states that the FSR is compliant. This discrepancy arises from the applicant's incorrect assessment of the developments GFA, in that the "garage" has been excluded from the applicant's calculation.

The definition of gross floor area as provided by the LEP is reproduced below:

- gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—
- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above

Subclause (g) excludes car parking spaces, which are required by the consent authority, from GFA calculations. However, Section 53(2)(b) of *State Environmental Planning Policy (Housing) 2021* states:

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

This provision implies that secondary dwellings are not required to provide additional car parking spaces. In this instance, the garage is physically attached to the secondary dwelling and no longer serves the principal dwelling. Therefore, the garage exceeds the parking requirements applicable to a secondary dwelling and does not qualify for exclusion under subclause (g). As such, the garage floor area must be included in the gross floor area calculation.

Clause 35B of the Environmental Planning and Assessment Regulation 2021 requires the applicant to prepare a document (written request) that sets out the grounds on which compliance with the development standard is unreasonable or unnecessary, and there are sufficient planning grounds to justify the contravention of

the development standard. The development application was not accompanied by a written request for the proposed variation to Clause 4.4.

Despite the insufficient information required to formally consider the variation to the development standard, the following analysis of the potential impacts resulting from the non-compliance is provided below.

The objectives of Cl.4.4 are as follows:

- (a) *to establish the bulk and maximum density of development consistent with the character, amenity and capacity of the area in which the development will be located,*
- (b) *to ensure the bulk of non-residential development in or adjoining a residential zone is compatible with the prevailing suburban character and amenity of the residential zone,*
- (c) *to encourage lot consolidations in commercial centres to facilitate higher quality built form and urban design outcomes,*
- (d) *to establish the maximum floor space available for development, taking into account the availability of infrastructure and the generation of vehicular and pedestrian traffic,*
- (e) *to provide a suitable balance between landscaping and built form in residential areas.*

The relevant objectives are reproduced and considered below.

OBJECTIVE	COUNCIL'S ASSESSMENT RESPONSE
(a) to establish the bulk and maximum density of development consistent with the character, amenity and capacity of the area in which the development will be located,	The proposed bulk and density are not in keeping with the established character and amenity of the surrounding area. The development introduces a built form that is visually dominant and incompatible with the prevailing low-density residential context. As a result, the amenity of both the subject site and adjoining properties are adversely affected, particularly in relation to visual impact, overshadowing, fire safety, and parking provision.
(d) to establish the maximum floor space available for development, taking into account the availability of infrastructure and the generation of vehicular and pedestrian traffic,	The proposed intensification of the site through an increase in gross floor area (GFA) raises significant concerns. Specifically, the development results in the loss of a covered car parking space for the principal dwelling and the reduction of solar access to private open space. These factors indicate that the proposal does not appropriately consider the implications of the development on general amenity and represent a failure to optimise the sites capacity. The proposal fails to demonstrate that the site can support this intensification without compromising these outcomes.
(e) to provide a suitable balance between landscaping and built form in residential areas,	The scale of the development adversely affects existing landscaping and private open space, particularly through its inability to provide adequate solar access to these landscaped areas.

Accordingly, the proposed development fails to satisfy the underlying intent of the standard, as evidenced by its inability to demonstrate consistency with the relevant objectives of Clause 4.4. Approval of the development in its current form would compromise the strategic purpose of the planning controls and risk establishing an undesirable precedent for future development within the area. Again, in the absence of a written submission under Clause 4.6 of the LEP, the consent authority has no power to grant consent to the proposed development.

Considering the above, the consent authority cannot be satisfied that the applicant has adequately addressed the matters required to be demonstrated under Clause 4.6. Approval of the proposed development would not be in the public interest, as the proposed development fails to demonstrate consistency with the objectives of the development standard and does not present sufficient environmental planning grounds to justify the extent of the variation sought. Furthermore, the consent authority has no power to grant consent to the proposed development.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

There are no draft EPI's that are applicable to the proposed development.

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

The following table provides a summary of the development application against the relevant controls contained within the Canterbury Bankstown Development Control Plan 2023.

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 2.2 FLOOD RISK MANAGEMENT FORMER BANKSTOWN LGA (ALL FLOOD RISK SITES) SECTION 3 – DEVELOPMENT CONTROLS			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
3.1 Flooding	The proposed development should not result in any significant increase in risk to human life, or in a significant increase in economic or social costs as a result of flooding.	Insufficient information has been received to accurately assess the impact of the development in regard to flooding. A Flood Risk Impact Assessment Report prepared by a qualified flooding engineer, has not been provided to Council, analysing the existing overland flow characteristics and associated flood risk assessment and demonstrating that the proposed development has complied with Council's Flood Risk Management Policy	N
3.2 Flooding	The proposal should only be permitted where effective warning time and reliable access is available to an area free of risk from flooding, consistent with any relevant Flood Plan or flood evacuation strategy.		
3.3 Flooding	Development should not significantly increase the potential for damage or risk other properties either individually or in combination with the cumulative impact of development that is likely to occur in the same floodplain.		

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 3.1 DEVELOPMENT ENGINE SECTION 3—STORMWATER DRAINAGE SYSTEMS ERING STANDARDS			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
3.1 Development impacted by stormwater systems	The development must be designed to consider the recommendations of the SSR and satisfy the requirements of this DCP. Development must be designed and constructed to make provision for overland flow from stormwater runoff generated by external upstream catchments.	The subject site is affected by potential local stormwater flooding and requires a Stormwater Systems Report (SSR). An SSR has been submitted with this application and the recommendations considered.	Y
3.2 Disposal of stormwater runoff	Site stormwater drainage systems should be designed to flow under gravity, and be connected to Council's stormwater drainage system at the nearest suitable location. Pipelines constructed across the footway must generally be confined to within the site frontage.	The applicant fails to demonstrate the downstream connection for the stormwater system. There is no indication of a drainage easement at the rear of the property such that an effective disposal of stormwater can be achieved.	N

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 3.2 PARKING			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
Off-Street Parking Schedule			
	Land Use	Car Spaces	Bicycle Spaces
	Dwelling houses	2 car spaces	Not applicable
2.1 Off-street parking calculation	Land Use: Required Car Parking: Car Parking Provided:	Dwelling house 2 spaces No car parking spaces nominated on the plans for the principal dwelling.	N
2.4 Off-street parking rates	Car parking (and associated space such as access aisles) in excess of the Off-Street Parking Schedule will be counted as gross floor area.	The car parking space shown attached to the secondary dwelling is in excess of what is required for the secondary dwelling. As a secondary dwelling is not required to provide a car parking space under the Housing SEPP, and as such the floor area of the garage is counted as GFA. Furthermore, the garage is undersized with a depth of only 4.9m and does not meet the minimum dimensions for a single garage.	N

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 3.7 LANDSCAPE SECTION 2–LANDSCAPE DESIGN			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
2.1 Existing vegetation and natural features	New landscaping is to complement the existing street landscaping and improve the quality of the streetscape.	The application does not propose any new landscaping.	N/A
2.2 Existing vegetation and natural features	Development, including alterations and additions, is to minimise earthworks (cut and fill) in order to conserve site soil. Where excavation is necessary, the reuse of excavated soil on site is encouraged.	The development does not propose any cut or fill.	N/A
2.3 Design and location of landscape	The landscape design is to contribute to and take advantage of the site characteristics.	The application is not supported by a landscape plan and is mute on any landscape opportunities.	N
2.4 Design and location of landscape	The landscape design is to improve the quality of the streetscape and communal open spaces by: (a) Providing appropriate shade from trees or structures; (b) Defining accessible and attractive routes through the communal open space and between buildings; (c) Providing screens and buffers that contribute to privacy, casual surveillance, urban design and environmental protection, where relevant; (d) Improving the microclimate of communal open spaces and hard paved areas; (e) Locating plants appropriately in relation to their size including mature size; (f) Softening the visual and physical impact of hard paved areas and building mass with landscaping that is appropriate in scale; (g) Including suitably sized trees, shrubs and groundcovers to aid climate control by providing shade in summer and sunlight in winter.		
2.5 Design and location of landscape	The landscape of setbacks and deep soil zones must: (a) Provide sufficient depth of soil to enable the growth of mature trees; (b) Use a combination of groundcovers, shrubs and trees; (c) Use shrubs that do not obstruct sightlines between the site and the		

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 3.7 LANDSCAPE SECTION 2–LANDSCAPE DESIGN			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
	public domain; and (d) Where buffer or screen planting is required, use continuous evergreen planting consisting of shrubs and trees to screen the structure, maintain privacy and function as an environmental buffer.		
2.6 Trees	Development must consider the retention of existing trees in the building design.	The development does not propose the removal of any trees.	Y
2.7 Trees	Development must plant at least one canopy tree for every 12 metres of front and rear boundary width and: (a) Canopy trees are to be of a minimum 75 litre pot size. (b) Use deciduous trees in small open spaces, such as courtyards, to improve solar access and control of microclimate. (c) Place evergreen trees well away from the building to allow the winter sun access. (d) Select trees that do not inhibit airflow. (e) Provide shade to large hard paved areas using tree species that are tolerant of compacted/deoxygenated soils.	The development does not propose the planting of any canopy trees.	N

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION		
CONTROL	REQUIREMENT	COMPLY
C1 Desired character	Low density residential areas The desired character is to have a low-density residential environment in Zone R2 where the typical features are dwelling houses, dual occupancies and secondary dwellings within a generous landscaped setting. The site cover and building form of development must be compatible with the prevailing suburban character and amenity of this zone. This zone is also the most restrictive in terms of other permitted uses that are considered suitable. These are generally restricted to facilities and services that meet the day-to-day needs of residents.	N

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION (FORMER BANKSTOWN) SECTION 3–SECONDARY DWELLINGS			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
3.1 Lot size	A secondary dwelling is permissible on a site with a minimum lot size of 450m ² .	The subject site is 566.5sqm	Y
3.2 Site cover	Council must not consent to development for the purpose of secondary dwellings unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under an environmental planning instrument; and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under an environmental planning instrument, that greater floor area.	(a) The total floor area exceeds the maximum permissible floor area under the LEP which limits FSR to 0.5:1. The application proposes a FSR of 0.53:1. (b) The proposed secondary dwelling is less than 60m ²	N
3.3 Storey limit (not including basements)	The storey limit for attached secondary dwellings is 2 storeys.	Not applicable – the applicant proposes a detached dwelling	N/A
3.4 Storey limit (not including basements)	The storey limit for detached secondary dwellings is single storey and the maximum wall height is 3 metres.	The proposal is a detached 2 storey secondary dwelling with a maximum wall height of 5.5m	N
3.5 Storey limit (not including basements)	The siting of secondary dwellings and landscape works must be compatible with the existing slope and contours of the site and any adjoining sites. Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.	The siting and scale of the secondary dwelling is not compatible with the built form structures that occupy the adjoining sites and presents as a dominant and prominent secondary dwelling when viewed from the adjoining sites.	N
3.6 Storey limit (not including basements)	Any reconstituted ground level on the site must not exceed a height of 600mm above the ground level (existing) of an adjoining site except where: (a) the secondary dwelling is required to be raised to achieve a suitable freeboard in accordance with Chapter 2.2 of this DCP; or (b) the fill is contained within the ground floor perimeter of the secondary	Ground level remains unchanged albeit it would be appropriate for the applicant to provide a recent survey plan confirming same.	N/A

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION (FORMER BANKSTOWN) SECTION 3–SECONDARY DWELLINGS			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
	dwelling to a height no greater than 1 metre above the ground level (existing) of the site.		
3.7 Setback restrictions	The erection of secondary dwellings is prohibited within 9 metres of an existing animal boarding or training establishment.	The secondary dwelling is not within 9m of an existing animal boarding or training establishment	Y
3.9 Street setbacks	The minimum setback for a building wall to the primary street frontage is: (a) 5.5 metres for the first storey (i.e. the ground floor); and (b) 6.5 metres for the second storey.	The secondary dwelling is setback more than 6.5m from the sites primary frontage as it is located behind the principal dwelling.	Y
3.10 Street setbacks	The minimum setback to the secondary street frontage is: (a) 3 metres for a building wall; and (b) 5.5 metres for a garage or carport that is attached to the building wall.	The site does not enjoy frontage to a secondary street frontage.	N/A
3.11 Side and rear setbacks	For the portion of the building wall that has a wall height less than or equal to 7 metres, the minimum setback to the side and rear boundaries of the site is 0.9 metre.	A minimum 0.9m setback to the western boundary is proposed.	Y
3.12 Side and rear setbacks	For the portion of the building wall that has a wall height greater than 7 metres, the minimum setback to the side and rear boundaries of the site is 1.5 metres.	Building walls proposed are less than 7 metres in height.	N/A
3.13 Private open space	Secondary dwellings must not result in the principal dwelling on the site having less than the required landscaped area and private open space.	145sqm of POS remains for the principal dwelling.	Y
3.14 Access to sunlight	At least one living area must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice. Council may allow light wells and skylights to supplement this access to sunlight provided these building elements are not the primary source of sunlight to the living areas.	Does not achieve sufficient solar access to living areas. The living area benefits from windows along the southern and eastern elevations. The primary window is largely overshadowed by the principal dwelling during the solstice.	N

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION (FORMER BANKSTOWN) SECTION 3–SECONDARY DWELLINGS			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
3.15 Access to sunlight	At least one living area of a dwelling on an adjoining site must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.	The proposed development does not overshadow adjoining dwellings.	Y
3.16 Access to sunlight	A minimum 50% of the private open space required for the principal dwelling on the site and a minimum 50% of the private open space of a dwelling on an adjoining site must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met for a dwelling on an adjoining site, the development must not result with additional overshadowing on the affected private open space.	The application does not demonstrate compliance with this control.	N
3.17 Visual privacy	Where development proposes a window that directly looks into the living area or bedroom window of an existing dwelling, the development must: (a) offset the windows between dwellings to minimise overlooking; or (b) provide the window with a minimum sill height of 1.5 metres above floor level; or (c) ensure the window cannot open and has obscure glazing to a minimum height of 1.5 metres above floor level; or (d) use another form of screening to the satisfaction of Council.	The application does not propose any windows which directly overlook the living areas of any adjoining dwellings.	N/A
3.18 Visual privacy	Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where: (a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non–habitable room; or (b) the window has a minimum sill height of 1.5 metres above floor level; or (c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or (d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower–level or	The development proposes a living room window which directly overlooks the private open space of the principal dwelling. Additionally, the development proposes a window which overlooks the private open space of the adjoining dwelling to the south. These	N

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION (FORMER BANKSTOWN) SECTION 3–SECONDARY DWELLINGS			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
	adjoining dwelling.	windows have not been designed to avoid overlooking.	
3.19 Visual privacy	Council may allow attached secondary dwellings to have an upper floor side or rear balcony solely where the balcony is not accessible from a living area or hallway, and the balcony design: (a) does not have an external staircase; and (b) does not exceed a width of 1.5 metres throughout; and (c) incorporates a form of screening to the satisfaction of Council such as partially recessing the balcony into the building.	The application does not propose any upper floor balconies.	N/A
3.20 Visual privacy	Council does not allow secondary dwellings to have roof-top balconies and the like.	No roof-top balcony or the like is proposed through the subject application.	N/A
3.21 Building design	The maximum roof pitch for attached secondary dwellings is 35 degrees.	The development is for a detached secondary dwelling.	N/A
3.22 Building design	Council may allow attached secondary dwellings to have an attic provided the attic design: (a) accommodates no more than two small rooms (for the purposes of a bedroom and/or study) and a bathroom plus an internal link to the storey below; and (b) ensures the attic does not give the external appearance of a storey.	The applicant is not seeking approval for an attached secondary dwelling.	N/A
3.23 Building design	The design of dormers must: (a) be compatible with the form and pitch of the roof; and (b) must not project above the ridgeline of the main roof; and (c) must not exceed a width of 2 metres; and (d) the number of dormers must not dominate the roof plane.	A dormer is not proposed with this application.	N/A
3.24 Building design	The maximum roof pitch for detached secondary dwellings is 25 degrees. An attic or basement is not permitted as part of the dwelling.	The proposed roof pitch is less than 25 degrees.	Y
3.25 Building design	Development in the foreshore protection area (refer to map in Appendix 1) must use non-reflective materials that are	The site is not situated within a foreshore protection	N/A

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION (FORMER BANKSTOWN) SECTION 3–SECONDARY DWELLINGS			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
	compatible with the natural characteristics and colours of the area (such as olive green, grey and dark brown).	area.	
3.26 Building design	The change of use of outbuildings to secondary dwellings must comply with the Building Code of Australia.	The development requires a BIC and is required to demonstrate compliance with the BCA	Y
3.27 Building design (car parking)	Secondary dwellings must not result in the principal dwelling on the site having less than the required car parking spaces.	The secondary dwelling results in the principal dwelling having less than the required number of car parking spaces.	N
3.28 Landscape	Development must retain and protect any significant trees on the site and adjoining sites. To achieve this clause, the development may require a design alteration or a reduction in the size of the secondary dwelling.	The development does not propose the removal of any trees.	Y

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION (FORMER BANKSTOWN) SECTION 11 – LIVABLE HOUSING			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
11.1	Development must comply with the following requirements: New secondary dwellings are to provide: • capability for a safe and continuous path of travel from the street or car parking area into the dwelling; • internal doorways to rooms on the entry level used for living, dining, bedroom, bathroom, kitchen, laundry and sanitary compartment purposes with a minimum clear opening width of 820mm. Internal corridors/passageways to these doorways should provide a minimum clear width of 1,000mm to facilitate comfortable and unimpeded movement between spaces; • a bathroom that contains a hobless shower recess; • reinforced walls around the toilet, shower and bath to support safe	Doorway to bathroom is less than 820mm wide – no bathroom is located on ground level. The dwelling does not provide for accessible use.	N

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 5.1 RESIDENTIAL ACCOMMODATION (FORMER BANKSTOWN) SECTION 11 – LIVABLE HOUSING			
CONTROL	REQUIREMENT	PROPOSED	COMPLY
	installation of grabrails at a later date.		
	Should the National Construction Code apply livable housing design requirements to class 1a buildings in NSW, the new dwelling must achieve the Silver Standard of the Livable Housing Design Guidelines		

Chapter 2.2 – Flood Risk Management

The proposal is situated on flood liable land, as portions of the site are below the 100-year flood level, and the Probable Maximum Flood level. The application has not demonstrated that the site is suitable for the proposed development with regard to the risk of flooding on site. A Flood Risk Impact Assessment Report, prepared by a qualified flooding engineer, is required by Council in order to analyse the existing overland flow characteristics and associated flood risk assessment and demonstrate that the proposed development has complied with Council's Flood Risk Management Policy – Chapter 2.2 of the DCP. Council is unable to determine whether the proposal has satisfactorily considered the flooding impacts from the existing overland flow path upstream. An assessment of the required flood report may lead to further comments or concerns being raised.

Chapter 3.2 – Parking

The proposed development fails to comply with several key planning controls regarding car parking, particularly in relation to the covered car parking space required for the principal dwelling. Clause 3.27 of Chapter 5.1 of the DCP requires that:

Secondary dwellings must not result in the principal dwelling on the site having less than the required car parking spaces.

In accordance with Clause 2.1 of Chapter 3.2 and Clause 2.25 of Chapter 5.1 of the DCP, the principal dwelling requires two car parking spaces, with at least one of which to be a covered space.

In this instance, the covered parking space, or garage, is physically attached to the proposed secondary dwelling and is no longer considered to be providing for the principal dwelling. As such, the site no longer benefits from a covered car parking space for the principal dwelling as a direct result of the proposed secondary dwelling.

Chapter 3.7 – Landscaping

The proposed development fails to comply with several key landscaping controls outlined in Chapter 3.7 of the DCP. Notably, the application is not accompanied by a landscape plan and is silent on any landscaping opportunities. As such, the development lacks sufficient landscaping to soften the visual impact of the built form.

This deficiency restricts the capacity for meaningful landscape integration and conflicts with the DCP's intent to promote green, visually softened interfaces in residential areas.

Chapter 5.1 – Wall Height

As identified previously in this report, the proposal is physically separate from the principal dwelling and as such, is a detached secondary dwelling.

The proposed development fails to comply with Clause 4.3 of Chapter 5.1 of the DCP which states that:

The storey limit for detached secondary dwellings is single storey and the maximum wall height is 3m.

The application proposes a two-storey detached secondary dwelling with a maximum wall height of 5.5 metres, thus exceeding the wall height limit by 2.5 metres or 83%. The storey limit is exceeded by 100%.

These contraventions result in a development that fails to comply with the objectives of Section 3 of Chapter 5.1 of the DCP. The proposed built form is substantial and lacks subservience in terms of visual bulk and scale. Furthermore, the excessive scale of the development contributes to additional impacts, including reduced solar access and compromised visual privacy for surrounding properties.

Chapter 5.1 – Access to Sunlight

The proposed development fails to meet the solar access requirements outlined in Chapter 5.1 of the DCP. The proposed secondary dwelling does not receive the minimum required sunlight to its living areas during the winter solstice, and insufficient information has been provided to demonstrate compliance with solar access standards for the private open space of the principal dwelling. The design is not optimal, as the windows to the living area are oriented only to the south and east, limiting the potential for effective solar gain.

This results in a poor design outcome that compromises residential amenity and conflicts with the objectives of Section 3, which seek to ensure appropriate access to sunlight, privacy, and compatibility with the surrounding suburban character.

Chapter 5.1 – Visual Privacy

The proposed development fails to comply with Clause 3.17 of Chapter 5.1 of the DCP, which sets out specific conditions under which windows overlooking private open space do not require screening. The development includes a living room window that directly overlooks the private open space of the principal dwelling. Furthermore, the development also proposes a window on the first floor which directly overlooks the private open space of the adjoining dwelling to the south of the development. As these windows serve habitable rooms and do not meet any of the exemption criteria, it results in an unacceptable visual privacy impact.

Chapter 5.1– Livable Housing

In accordance with Section 11 of Chapter 5.1 of the DCP, secondary dwellings are required to incorporate key accessibility and adaptability features to support residents' changing needs over time. These include provisions for safe access, adequate internal circulation, and bathroom design that facilitates future modifications. The proposal fails to meet these requirements, notably by not providing bathroom facilities on the ground floor and by including internal doorways that do not achieve the minimum clear width of 820mm. Furthermore, the plans do not indicate any provision for reinforced walls to accommodate installation of future grab rails. As a result, the development does not support the principle of ageing in place and is inconsistent with the objectives of this section.

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 consistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2021. In particular, the application is not accompanied by Clause 4.6 written requests regarding the variations to Clauses 4.3 and 4.4 of the LEP, in accordance with Clause 35 of the regulations.

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

The key potential impacts of the development have been discussed throughout this report. Based on the above findings, it is considered that the proposed development will result in an undesirable impact on the amenity of the adjoining property owners and the occupants of the principal dwelling.

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

The application has been assessed under Section 4.15 of the Act, and as demonstrated throughout the body of this report, the application is poorly resolved with significant areas of concern. The assessment report identifies a number of departures from relevant development standards as well as several non-compliances with development controls. The proposal, in its current form, does not adequately respond to the sites context and fails to demonstrate consistency with the objectives of the relevant development standards and the zone. Accordingly, it is considered that the site is not suitable for the development.

Submissions [section 4.15(1)(d)]

The application was notified for a period of 14 days from 19 September 2025 until 3 October 2025. Two (2) objections were received during this period raising concerns relating to:

- Unlawful commencement of works.
- Inappropriate setbacks.
- Excessive wall height.
- Stormwater management.
- Solar access.
- Visual privacy.
- Inadequate landscaping.

Submission: *Unlawful commencement of works*

Comment: In this instance the construction of the secondary dwelling is partially completed. Approval cannot be sought for works which have already commenced. This is a reason for refusal.

Submission: *Inappropriate setbacks*

Comment: The proposed development complies with the setback controls as set out in the Canterbury Bankstown Development Control Plan 2023, which requires that the structure maintains a minimum 0.9m setback to the side and rear boundaries.

Submission: *Excessive wall height*

Comment: The proposed development demonstrates a wall height of 5.5m which breaches the wall height limit of 3m. This is a reason for refusal.

Submission: *Stormwater management*

Comment: The development has failed to demonstrate adequate stormwater management for the site. This is a reason for refusal.

Submission: *Solar Access to adjoining dwellings*

Comment: The development fails to demonstrate compliance with the solar access requirements for secondary dwellings, which require that the adjoining dwellings maintain at least 3 hours of sunlight to a minimum of 50% of the private open space required, between 9am-5pm at the equinox. This is a reason for refusal.

Submission: *Visual privacy*

Comment: The development fails to comply with the visual privacy controls in the development control plan, particularly regarding the direct overlooking of private open spaces. This is a reason for refusal.

Submission: *Inadequate landscaping*

Comment: The proposed development is accompanied with insufficient information regarding the proposed landscape treatment. This is a reason for refusal.

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

The proposed development, in its current form, is not considered to be in the public interest. The proposed departures from the key planning controls will result in a development that is not in keeping with the current and future desired character of the locality.

CONCLUSION

Development Application DA-1027/2025 has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, requiring, amongst other things, an assessment against the provisions contained within State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Sustainable Buildings) 2022, State Environmental Planning Policy (Housing) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, Canterbury Bankstown Local Environmental Plan 2023, and Canterbury Bankstown Development Control Plan 2023.

As outlined throughout this report, the proposed development fails to comply with several key planning standards and controls, including the maximum wall height, maximum floor space ratio (FSR), visual privacy, solar access, and has provided insufficient information regarding flooding. These non-compliances are not isolated but interconnected, collectively contributing to a built form that is inappropriate for the site and its context.

Given the number and nature of the non-compliances, and the failure to demonstrate consistency with the objectives of the planning controls, it is evident that the proposal is not suitable for the site. It does not represent a good planning outcome and is not in the public interest. Finally, the applicant has not provided a written submission under Clause 4.6 of the LEP seeking to justify the variations to the development standards, meaning the consent authority has no power to grant consent to the proposed development. The application therefore should be refused.

RECOMMENDATION

It is recommended that the Development Application DA-1027/2025 be **REFUSED** for the reasons set out in Attachment 2.

Reasons for Refusal

Canterbury-Bankstown Local Planning Panel, as consent authority, and under Section 4.16 of the *Environmental Planning and Assessment Act 1979*, gives notice under Section 4.18 of the Act, that the Development Application, described above, was refused for the following reasons:

1. The proposed development fails to satisfy the objectives of the R2 Low Density Residential Zone that refers to promoting a high standard of urban design and local amenity. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
2. The proposed development is unsatisfactory in terms of its failure to satisfy the objectives of Clause 4.3 of the Canterbury Bankstown Local Environmental Plan 2023 with regard to supporting building design that contributes positively to the streetscape and visual amenity of an area. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
3. The proposed development fails to satisfy Clause 4.3 of the Canterbury Bankstown Local Environmental Plan 2023 with regard to the maximum wall height for secondary dwellings. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
4. The proposed development is unsatisfactory in terms of its failure to satisfy the objectives of Clause 4.4 of the Canterbury Bankstown Local Environmental Plan 2023 with regard to establishing the bulk and maximum density of development consistent with the character, amenity and capacity of the area in which the development will be located. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
5. The proposed development fails to satisfy Clause 4.4 of the Canterbury Bankstown Local Environmental Plan 2023 with regard to floor space ratio. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
6. The proposed development fails to satisfy Clause 4.6 of the Canterbury Bankstown Local Environmental Plan 2023 with regard to exceptions to development standards. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
7. The proposed development fails to satisfy Clause 6.3 of the Canterbury Bankstown Local Environmental Plan 2023 with regard to stormwater impacts. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
8. The proposed development fails to meet the requirements of the State Environmental Planning Policy (Sustainable Buildings) 2022 with regard to standards for residential development. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].

9. The proposed development fails to satisfy the requirements of Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 with regard to the disposal of stormwater. [Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*].
10. The proposed development does not comply with Chapter 2.2 of the Canterbury Bankstown Development Control Plan 2023, with regard to flood risk management. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
11. The proposed development does not comply with Chapter 3.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to Stormwater Management. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
12. The proposed development does not comply with Chapter 3.2 of the Canterbury Bankstown Development Control Plan 2023, with regard to parking. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
13. The proposed development does not comply with Chapter 3.3 of the Canterbury Bankstown Development Control Plan 2023, with regard to waste management. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
14. The proposed development does not comply with Chapter 3.7 of the Canterbury Bankstown Development Control Plan 2023, with regard to landscape design. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
15. The proposed development does not comply with Section 2.25 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to covered car parking spaces. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
16. The proposed development does not comply with Section 3.27 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to principal dwelling car parking requirements. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
17. The proposed development does not comply with Section 3.4 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to the storey limit and wall height for secondary dwellings. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
18. The proposed development does not comply with Section 3.14 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to solar access to living areas. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].

19. The proposed development does not comply with Section 3.16 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to solar access to private open space. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
20. The proposed development does not comply with Section 3.18 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to visual privacy. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
21. The proposed development does not comply with Section 3.26 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to compliance with the National Construction Code. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
22. The proposed development does not comply with Section 11 of Chapter 5.1 of the Canterbury Bankstown Development Control Plan 2023, with regard to liveable housing requirements. [Pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*].
23. Insufficient information has been submitted with the proposed development, specifically with regard to detailed architectural plans and a current survey plan. [Pursuant to the provisions of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*].
24. Having regard to the reasons noted above, the consent authority cannot be satisfied in relation to the impacts of the proposed development or the suitability of the site for the proposed development. [Pursuant to section 4.15(1)(b) and (c) of the *Environmental Planning and Assessment Act, 1979*].
25. Having regard to the reasons noted above, approval of the development application is not in the public interest. [Pursuant to the provisions of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*].

- END -

Canterbury Bankstown Local Planning Panel - 08 December 2025

ITEM 4	618 Canterbury Road, Belmore
	Extend the hours of operation of St George Hotel (Pub) to 4.00 am Monday to Saturday, and any public holidays falling on those days
FILE	DA-930/2025 – Bunmarra / Roselands Ward
ZONING	E1 Local Centre
DATE OF LODGEMENT	28 August 2025
APPLICANT	St George Hotel Belmore Pty Ltd
OWNERS	SGH Property Holdings Pty Ltd
ESTIMATED VALUE	NIL
AUTHOR	Planning

REPORT

This application is referred to Council's Local Planning Panel (the Panel) in accordance with Schedule 2 of the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent*, issued by the Minister for Planning and Public Spaces under section 9.1 of the *Environmental Planning and Assessment Act 1979*. The application seeks consent for a "contentious development" that is the subject of ten (10) or more unique submissions by way of objection and must be reported to the Panel for determination.

The development proposed under DA-930/2025 involves extending the hours of operation of St George Hotel (Pub) from 10:00 am to 3:00 am Monday to Saturday, 10:00 am to midnight on Sundays to 4.00 am Monday to Saturday, and any public holidays falling on those days. Sunday open hours remain unchanged.

Development Application DA-930/2025 has been assessed having regard to the matters for consideration contained in section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against the provisions contained within:

- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Transport and Infrastructure) 2021,

- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP),
- Canterbury Bankstown Development Control Plan 2023 (CBDCP).

The application was neighbour-notified and advertised for a period of 21 days ending on 1 October 2025 in accordance with Council's adopted Community Participation Plan. A total of 10 unique submissions have been received. The submissions raise concerns regarding increased noise impacts on the adjoining neighbours, increased impacts of traffic and parking on the streets surrounding the subject site and community safety. Each of these issues are addressed in the 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 Development Application DA-930/2025 be **APPROVED** subject to Conditions of Consent in Attachment 2.

ATTACHMENTS

1. Section 4.15 Assessment Report
2. Conditions of Consent

DA-930/2025 ASSESSMENT REPORT

SITE AND LOCALITY DESCRIPTION

The subject site is known as, 618 Canterbury Road, Belmore and is legally described as Lot 1 in DP 917680 and Lot 1 DP 125346. The land is owned by SGH Property Holdings Pty Ltd. The site is regular in shape and has a total area of 1752m² and is zoned E1 Local Centre. The site has two frontages, with a 36.3m primary frontage to Canterbury Road and a 40.2mm secondary frontage to Kingsgrove Road. Canterbury Road is classified as a State Road and Kingsgrove Road is classified as a Regional Road.

The site contains the St George Hotel which currently includes a public bar, sports bar, indoor and outdoor gaming rooms, pool room area, courtyard, accommodation, and car parking. The Hotel has a liquor licence granted November 1939 as recorded by Liquor and Gaming NSW. This licence allows the sale of liquor for consumption on the licensed premises and for take away purposes, in conjunction with the operation of approved gaming machines on the Hotel's licensed premises.



Figure 1: Street frontage of St George Hotel **Source:** Google Maps



Figure 2: Excerpt from LEP Land Zoning Map (Site outlined in dotted yellow)
Source: Council LEP Zoning Map

SURROUNDING DEVELOPMENT

The surrounding area predominately consists of E1 Local Centre and E3 Productivity Support zones along Canterbury Road and beyond that are R3 Medium Density Residential zones. The sites along Canterbury Road are a mix of development types.

The site is adjoined to the west by shop-top housing at 628-630 Canterbury Road. Along Canterbury Road are similar shop-top housing developments and other businesses including retail, fitness facilities, smash repair, tutoring, barber shop, and other services.

Adjoining the site to the south is medium density residential housing consisting of single and double storey brick dwellings in the R3 Medium Density Residential zone. The broader area are also R3 Medium Density Housing zones with single and double storey dwellings.



Figure 3: Aerial view of 618 Canterbury Road (red) **Source:** Nearmap

PROPOSED DEVELOPMENT

Development Application DA-930/2025 proposes to extend the hours of operation from 10:00 am to 3:00 am Monday to Saturday, 10:00 am to midnight on Sundays, as approved by RE-279/2025/2, to 4.00 am Monday to Saturday, and any public holidays falling on those days. Sunday open hours remain unchanged. No works are proposed with the application. The application is supported by an acoustic report and a plan of management.

BACKGROUND

Development Application DA-930/2025 was lodged on 19 August 2025 and was not preceded by any pre-DA discussions. The St George Hotel has resided on the site since its opening in 1893 and has undergone various alterations and additions. There are several previous DAs that are relevant to the site. These are listed below:

Previous Development Applications	
DA-8883/1997	On 26 June 1997 Council, approved the alternations to the existing dining room area and an extension to the hotel.
DA-1262/2005	On 26 September 2005 Council, approved the internal renovations and reconfiguration to the St. George hotel.
DA-1122/2000	On 17 April 2001, Council, approved the extension of trading hours to extend the trading hours of the St George Hotel to 3.00 am Monday to Saturday inclusive and 10.00 am to 10.00 pm. Sunday. The consent was limited to a period of 12 months to allow for a review of the hours after this period.
DA-1122/2002	On 8 August 2002, Council approved the removal of Condition 1.3 of the Development Consent DA-1122/2000 in order to remove the 12-month trial period.
DA-122/2013	On 29 August 2013 Council, approved alterations and additions to the existing hotel premises including internal changes to the gaming room, refurbishment of the bar area, refurbishment of the south entry, new disabled access, installation of an acoustic screen, extension of courtyard area, reconfiguration of the carpark.
DA-1122/2000/A	On 4 November 2019, Council approved the removal of Condition 1.5 and 1.8 of Development Consent DA-1122/2000 in order to modify the restrictions on entry into the premises after 12:00 midnight.
DA-635/2024	On 14 November 2024, Council approved alterations and additions to the existing hotel to form toilets, changes to the gaming bar and food preparation area and entry foyer.
DA-642/2024	On 23 January 2025, the Land and Environment Court approved the continued use of eight illuminated business identification and directional signs, with five of them being digital signs on the St George Hotel.
DA-279/2025	On 18 July 2025, Council approved the extension to the Hotels trading hours to allow the premises to operate until 12.00 midnight on a Sunday.
RE-279/2025/2	On 16 September 2025, Council approved the Division 8.2 Review of Council's Conditions on DA-279/2025 to extend the Hotels trading hours to trade until 3:00 am on any Public Holidays that are not Sundays.

STATUTORY CONSIDERATIONS

When determining this application, the relevant matters listed in section 4.15 of the *Environmental Planning and Assessment Act 1979* must be considered. In this regard, the following environmental planning instruments and development control plans are relevant:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Transport and Infrastructure) 2021,
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP),
- Canterbury Bankstown Development Control Plan 2023 (CBDCP).

Section 4.15 ASSESSMENT

The following sections of this report provide for an assessment of the development having regard to the matters for consideration contained in section 4.15(1) of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 in this SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. Chapter 2 applies to the whole of Canterbury Bankstown Council, including the subject development site.

The application does not seek consent for the removal of any vegetation and accordingly the proposal is consistent with the aims of Chapter 2 of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 (TISEPP) aims to facilitate the effective delivery of infrastructure across the State. Chapter 3 of TISEPP applies to development fronting a classified road and aims to facilitate any development to which it applies.

A referral to Transport for New South Wales under Chapter 2 Division 17 Section 2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021 was not required in this case. Despite the site fronting Canterbury Road which is a classified road and Kingsgrove Road which is a Regional Road, there are no works proposed, thus Transport for New South Wales approval was not required.

Canterbury Bankstown Local Environmental Plan 2023

The site is zoned E1 Local Centre under the Canterbury Bankstown Local Environmental Plan 2023 (CBLEP). The site retains the use of the site as a pub hotel which is permissible with the consent of Council on land zoned E1 Local Centre.

The proposed development has been considered against the relevant clauses of the Canterbury Bankstown Local Environmental Plan 2023. The proposed development is consistent with the relevant aims of the CBLEP 2023, which are as follows:

Clause 1.2 - Aims of Plan

1.2 Aims of Plan

- (1) *This Plan aims to make local environmental planning provisions for land in Canterbury-Bankstown in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- (2) *The particular aims of this Plan are as follows—*

- (d) *to provide development opportunities that are compatible with the desired future character and amenity of Canterbury-Bankstown,*
- (i) *to provide a range of recreational and community service opportunities and open spaces to meet the needs of residents of and visitors to Canterbury-Bankstown,*
- (j) *to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
- (k) *to ensure activities that may generate intensive car usage and traffic are located near public transport that runs frequently to reduce dependence on cars and road traffic,*
- (l) *to consider the cumulative impact of development on the health of the natural environment and waterways and on the capacity of infrastructure and the road network,*
- (m) *to support healthy living and enhance the quality of life and the social well-being and amenity of the community.*

The proposal reflects a development that is consistent with these aims as the proposal has adequately considered the impacts of the development to the adjoining neighbours and demonstrated that the development would have minimal impact on the adjoining lots.

The site is zoned E1 Local Centre under the CBLEP. Clause 2.3(2) of the CBLEP states 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 that zone". The Land Use Table identifies the objectives of the E1 Zone as being:

Zone E1 Local Centre

1 Objectives of zone

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To promote a high standard of urban design and local amenity.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

The application satisfies the objectives of the zone as the proposed increase in operating hours will have minimal impact on the living environment or amenity of surrounding areas of the site.

The proposed extension to operating hours will not create any additional impacts from the existing pub hotel operations, which have been reviewed by Council Officers and found to be acceptable. In particular, the noise generation from the hotel pub is currently acceptable. The acoustic report provided with the subject application demonstrates that given the approved operating hours of 10 am to 3 am, the site is capable of remaining compliant with the acoustic requirements for a 4 am closing time. Furthermore, the plan of management proposed with the application has also demonstrated that the premises is capable of maintaining safety to both the community and to the hotel pubs patrons.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

There are no applicable draft environmental planning instruments.

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

Canterbury-Bankstown Development Control Plan 2023

The controls within Council's Development Control Plan (DCP) are primarily for the purposes of guiding new physical development and are therefore largely not relevant to the subject proposal of increasing the operation hours. The following assessment has therefore included only the controls relevant to the proposal.

The relevant Parts of the DCP are listed below:

- Chapter 7 Commercial Centres - Subchapter 7.1 General Requirements.

The relevant controls within the DCP, and the manner in which this development addresses these controls, are detailed below:

Subchapter 7.1 General Requirements - Section 9 General Design and Amenity

The controls regarding amenity to neighbours are primarily designed for new developments. However, an assessment was conducted against the objectives of this section which are listed below:

Development adjacent to residential zones

9.20 In determining an application that relates to a site adjoining land in Zone R2, R3 or R4, Council must take into consideration the following matters:

- (d) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised;*
- (e) whether the proposed development will otherwise cause nuisance to residents by way of noise, hours of operation, traffic*

movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like;

An acoustic report accompanies the application and was assessed by Council's Environmental Health Officer. The officer raised no issues with regard to the contents of the report or its recommendations and thus the noise generation levels are deemed suitable for a site within the vicinity of a residential area. Council's Environmental Health Officer provided conditions of consent to be included with the approval notice.

The acoustic report has detailed operational strategies that the hotel pub will implement to minimise adverse noise levels. Such strategies include closing windows and doors after midnight, outdoor areas aren't to be used after midnight and music and gaming machines are to be limited in sound levels. Additionally, a part of DA-635/2024 the alterations and additions approved involved the acoustic treatment of vents and openings. These strategies included as part of the recommendations of the acoustic report are included within the proposed Conditions of Consent.

In addition to the acoustic report, the applicant has submitted an updated Plan of Management which outlines the many policies and procedures that the premises will either continue to operate under or adopt in order to effectively maintain orderly conduct, operate within the requirements of the Liquor and Gaming NSW, and ensure safety to the public, the staff, and the sites patrons. The Plan of Management will be taught to all staff members who will provide written confirmation of their understanding of the policy.

Furthermore, the Development Application was referred to Council's Community Safety who reviewed it from a safety and crime prevention perspective. It is noted that Campsie Police Area Command have reviewed the proposal and have raised no objection, indicating support for the extension of trading hours to 4 am. While the community safety officer raised no objections to the proposed extension, they did note that trading past 2 am can increase the risk of noise, antisocial behaviour, and alcohol-related incidents. To help manage these risks, the officer provided conditions of consent to ensure community safety and compliance with the requirements of Liquor and Gaming NSW.

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

A planning agreement has not been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*, nor has the applicant offered to enter into a draft planning agreement.

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

The proposed development is consistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2021*.

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

The likely impacts of the proposed development are summarised below:

Social impacts on the locality

St George hotel has operated as such since its opening in 1893 and while it has undergone alterations since then, the building has been consistently updated to meet the modern standards of Council and the NSW Government. It has also established a character of late-night use in the area. The site has historically produced an increase in noise to the locality; however, the acoustic report concludes that the acoustic treatments that apply to the Hotel that allow it to trade until 3.00am Monday to Saturday will also enable the Hotel to trade until 4.00am with minimal to no additional impacts on the locality.

Additionally, by virtue of the type of use the site has historically had, there is a risk of unruly conduct. However, the plan of management has been reviewed and found to provide effective strategies to mitigate safety risks and negate adverse effects on the neighbouring developments.

Economic impacts on the locality

The proposed development would provide opportunities to allow the Hotel patrons to use the Hotel's facilities on offer until 4.00am with minimal adverse impact on the surrounding areas.

The potential impacts of the proposed development have been examined in the assessment of DA-930/2025 and they would be acceptable in the context of the site.

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

The proposed development of extending the operating hours of the hotel pub to a 4 am closing time is permitted with consent, the potential impacts of which have been shown to be manageable, and the applicable development standards and controls have been complied with. The site is therefore suitable for the proposed development.

Submissions [section 4.15(1)(d)]

The application was neighbour-notified and advertised for a period of 21 days, from 10 September 2025 to 1 October 2025, in accordance with Council's adopted Community Participation Plan.

A total of 10 submissions have been received with respect to the proposed development. In each case, the submissions raised objection to the development proceeding.

The following community concerns were raised, and a detailed response has been provided below.

Submission: *Community safety (increased violence and antisocial behaviour)*

Comment: Concern was raised regarding the wellbeing and safety of the neighbouring residents and broader community. The matter was referred to Councils Community Safety Team and to Campsie Police Area Command who addressed the application and its accompanying reports and found that based upon the findings of the acoustic report and the implementation of the Plan of Management the proposal was able to be supported, subject to conditions of consent. Council has also included a review condition as part of the conditions of consent, whereby Council is able to review the conditions of consent for operating hours at any time.

Submission: *Increased noise*

Comment: Concern was raised regarding the noise generation as a result of the proposed change of operating hours. The matter was referred to Councils Environmental Health Officer who found that based upon the findings and the conclusions of the acoustic report the proposal was able to be supported, subject to conditions of consent. Council has also included a review condition under s4.17(10B) of the Environmental Planning and Assessment Act 1979 as part of the conditions of consent, whereby Council is able to review the conditions of consent for operating hours at any time.

Submission: *Increased traffic*

Comment: The proposed development does not propose to increase the capacity of the existing hotel pub. Thus, the existing parking arrangement and traffic management for the subject is considered to remain in compliance with relevant Council controls.

Submission: *Illegal substance distribution in the car park*

Comment: Evidence of any illegal actions in the carpark have not been submitted and thus this concern is not a planning consideration under s4.15 of the Environmental Planning and Assessment Act 1979. Should any illegal activities occur on the subject site, the matter should be sent to the police for investigation.

Submission: *Drone use in the car park*

Comment: Evidence of any illegal actions in the carpark have not been submitted and thus this concern is not a planning consideration under s4.15 of the Environmental Planning and Assessment Act 1979. Should any illegal activities occur on the subject site, the matter should be sent to the police for investigation.

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

The public interest is served through the consistent application of policies and standards within the planning framework. Approval of the proposed development is not considered to contravene the public interest as it does not result in adverse impacts detrimental to local and environmental amenity. Where impacts may occur conditions of consent have been applied to ensure amenity is retained.

CONCLUSION

Development Application DA-930/2025 has been assessed in accordance with 4.15(1) of the *Environmental Planning and Assessment Act* 1979. This report provides a detailed assessment of the site and its surrounds and the manner in which DA-930/2025 responds to and addresses the relevant planning legislation and the site's surrounds. The development successfully protects the environmental amenity of the area in addition to preserving the desired future character of the locality.

It is considered that the Conditions of Consent placed in the accompanying determination notice ensure that an acceptable form of development is carried out and that any impacts on adjoining and nearby properties can be appropriately mitigated, and where necessary are managed.

As such, it is concluded that the development has merit and is therefore worthy of being supported.

RECOMMENDATION

It is recommended that Development Application DA-930/2025 be **APPROVED** subject to Conditions of Consent in Attachment 2.

GENERAL CONDITIONS

Number	Condition
1.	Acoustic Report The acoustic report submitted in support of this application prepared by Renzo Tonin & Associates titled 'St George Hotel, Belmore, Acoustic Assessment for Extension of Hours (4am Trading)', reference number TN843-03F01 Acoustic Report (r1) dated 4 August 2025 and all the recommendations stated within the report, form part of the development consent. The principal certifier shall obtain a report from an appropriately qualified acoustic consultant, not previously involved with the development, stating that the recommendations outlined in the above-mentioned acoustic report have been implemented and that the relevant noise criteria have been satisfied prior to the issue of any occupation certificate. A copy of the report is to be submitted to Council prior to the issue of any occupation certificate. Condition reason: To ensure the development is built and remains consistent with approved plans and documentation.
2.	Further Acoustic Assessment Following occupation of the building/premises, should it be found that the measures recommended in the acoustic assessment are not sufficient, or have been incorrectly installed or a noise issue (relating to the development) not previously identified arises (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. Condition reason: To protect the amenity of the surrounding area.
3.	Compliance with Noise Control Legislation The applicant must ensure that all activities within the premises comply with the relevant sections of the <i>Protection of the Environment Operations Act 1997</i> and Regulations and the Noise Policy for Industry (NSW EPA, 2017). Condition reason: To protect the amenity of the surrounding area.
4.	Amplified Music Music and other amplified sound played on the premises must not give rise to offensive noise as defined under the provisions of the <i>Protection of the Environment Operations Act 1997</i>. The sound level output must not exceed five (5) dB(A) above the ambient background level at the boundary of the premises. Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
5.	Plan of Management The Plan of Management submitted in support of this application forms part of the development consent. In the event of any inconsistency, the conditions of this consent will prevail over the plan of management. Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.

6.	Control of Noise upon Exiting A clearly visible sign must be permanently erected immediately adjacent to the entry/exit doors indicating that patrons are to leave in an orderly fashion and must leave the vicinity of the premises in a manner that does not disturb the quiet and good order of the neighbourhood. Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
7.	POEO – General Any activity carried out in accordance with this approval must not give rise to offensive odour, offensive noise or pollution of air, land or water as defined in the <i>Protection of the Environment Operations Act 1997</i> and Regulations. Condition reason: To ensure compliance with the relevant New South Wales legislation.
8.	General Amenity 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, wastewater, waste products, grit, oil or other harmful products. Condition reason: To protect the amenity of the surrounding area.

OCCUPATION AND ONGOING USE

9.

Hours of operation
During ongoing use of the premises, the hours of operation of the premises are restricted to:

	From	To
Monday	10.00am	4.00am Tuesday
Tuesday	10.00am	4.00am Wednesday
Wednesday	10.00am	4.00am Thursday
Thursday	10.00am	4.00am Friday
Friday	10.00am	4.00am Saturday
Saturday	10.00am	4.00am Sunday
Sunday	10.00am	12.00 midnight

This condition is a review condition under section 4.17(10B) of the Environmental Planning and Assessment Act 1979, imposed to allow the consent authority to monitor compliance with the requirements of this consent. Should Council receive any noise or amenity complaints regarding operation of the subject use, the consent authority will undertake a review at any time, by providing the applicant with 14 days' notice of the review being undertaken.

7.102

Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.

10.

Protection of Environment
The development must not cause offensive noise as defined by the *Protection of the Environment Operation Act 1997*. Following occupation, should complaints of a noise nuisance be received and substantiated by an Authorised Officer, an acoustic assessment shall be conducted by a qualified acoustic consultant and the resulting report shall be provided to Council for approval. Following approval the owner/occupier shall then implement all recommendations contained in the assessment report within a timeframe set

	by Council, to the satisfaction of Council and in compliance with any additional direction given by Council. 7.618
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites and to ensure compliance with the relevant New South Wales legislation.
11.	Commercial / Industrial activities The consent holder shall ensure that all activities within the premises comply with the relevant sections of the Protection of the <i>Environment Operations Act 1997</i> and Regulations and the NSW Environment Protection Authority Industrial Noise Policy (2000). 7.623
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites and to ensure compliance with the relevant New South Wales legislation.
12.	Emergency response 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. 7.632
	Condition reason: To protect and enhance the amenity of the occupants of the development site and the occupants of adjoining sites.
13.	Security and Staffing Licensed security guards should be on duty from 10pm until closing, in line with best practice guidance from Liquor and Gaming NSW for late-trading venues. Security staff should monitor both internal areas and immediate surroundings to prevent antisocial behaviour and support safe patron movement. Condition reason: Condition provided by Community Safety team and Campsie Police Area Command.
14.	CCTV Coverage A CCTV system should be installed and maintained to NSW Police standards, covering all entrances, exits and main areas. Recordings should be kept for a minimum of 30 days and made available to Police or Council on request. Condition reason: Condition provided by Community Safety team and Campsie Police Area Command
15.	Noise and Patron Management A plan should be in place to manage noise and ensure patrons leave the premises quietly, especially after midnight. Condition reason: Condition provided by Community Safety team and Campsie Police Area Command.
16.	Responsible Service of Alcohol (RSA) All staff must hold valid RSA certification and follow RSA requirements. No new patrons should be allowed entry after 3am to support a gradual and safe closing. Condition reason: Condition provided by Community Safety team and Campsie Police Area Command.

- END -