

## **Statement of Environmental Effects to support a Modification (S4.55)**

Modification to an approved development for  
Division 8.2 Review of Council's Refusal for  
Demolition of Existing Site Structures and  
Construction of an Attached Dual Occupancy  
with Basement Level and Torrens Title  
Subdivision.

LOT: 9 DP: 30757

17 Hillview Avenue, Bankstown

New South Wales, 2200

**Canterbury-Bankstown Council**

## Modified Statement of Environmental Effects

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Revision

05.05.2022 – Issued to Client – for review.



## Introduction

This Modified Statement of Environmental Effects has been prepared to accompany an application for a modification to the Consent (DA DA-209/2018/1) approved by Canterbury-Bankstown Council on 30 July 2018 for the Division 8.2 Review of Council's Refusal for Demolition of Existing Site Structures and Construction of an Attached Dual Occupancy with Basement Level and Torrens Title Subdivision at the subject site, 17 Hillview Avenue, Bankston (Figure 1) in accordance with Section 4.55(1a) of the Environmental Planning and Assessment Act 1979 (EPA&A 1979).

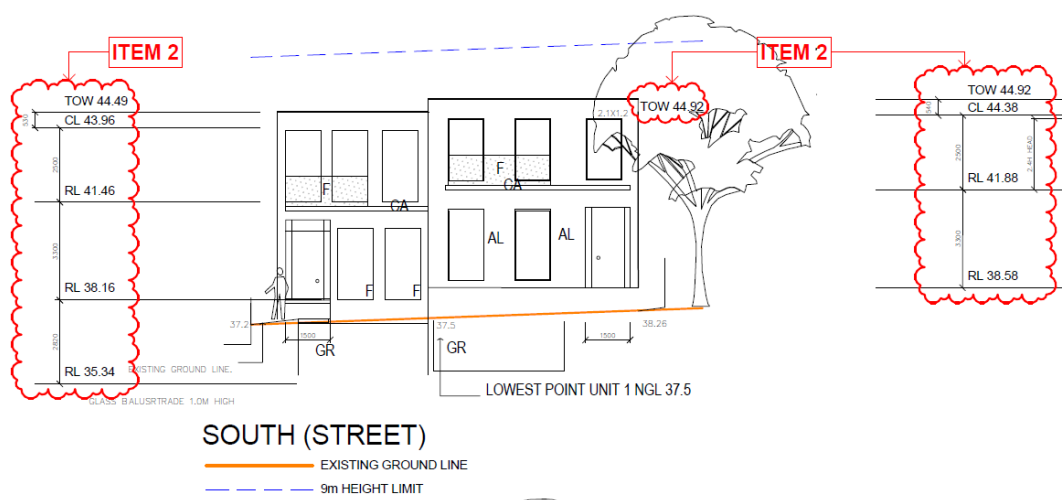


Figure 1 Proposed streetscape elevation of DA Approved 17 Hillview Avenue, Bankstown

This Amended Statement, along with the supporting plans and reports, provide all the necessary information to assist the consent authority in making an informed assessment and favourable determination of the proposal in accordance with Section 4.55(1a) of the Environmental Planning and Assessment Act 1979 (EPA&A 1979).

## Site Location and Analysis

*The site has an area of 645 sq m. It is wedged shaped with the narrow end to the street. The frontage at the street line is curved. It consists of two arcs. Lengths are 6.611m and 7.112m. The side boundaries are 33.78m on the eastern side and 37.72m on the west. The rear is 22.86m. At the 5.5m building line the frontage is 15.05m. The land has sloping topography and a fall of approximately 3m from the rear of the property to the front of the property. The existing building on the site is a 1 & 1/2 storey dwelling to be demolished. (Holmes by Design Architects)*



Figure 2. 17 Hillview Avenue, Bankstown (SIX Maps)

The locality is characterised by similar lot sizes and frontages, containing dual occupancies, villas and townhouses, with associated pools, outbuildings and attached garages.

## Planning History

[SUB-49/2022](#)

[CC-153/2021](#)

[DA-209/2018/1/A](#)

[DA-209/2018/1](#)

[DA-209/2018](#)

Subdivision Application

CC Private Certifier (Canterbury Bankstown Area)

Development Application

Development Application

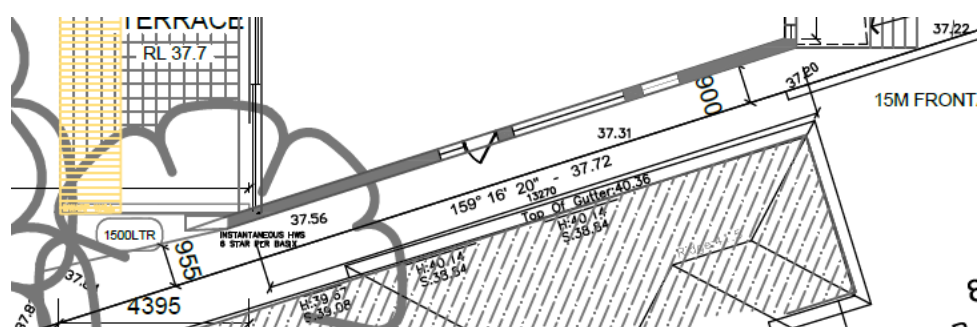
Development Application

## The Proposal

The Modification proposes the following (as built) changes

ITEM 1: Side setback of external wall along western boundary reduced from approved 900mm to 850-860mm setback as per as-built survey provided by Sydney Registered Surveyors.

### Approved Development:



**Approved development:**



## Considerations under section 4.55 of the Environmental Planning & Assessment (EP&A) Act 1979

### ***(1A) Modifications involving minimal environmental impact***

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*

#### **Comment:**

The following court cases provide a useful guide to the application of Modifications to consents and “(a) it is satisfied that the proposed modification is of minimal environmental impact”:

- ACM Landmark Pty Limited v Cessnock City Council [2005] NSWLEC 645

This case in particular tests that a development consent can be validly modified under s96(1A) of the Environmental Planning & Assessment Act 1979 (EPA Act) in circumstances where there would not be any adverse impact on amenity.

The proposal is therefore presented in a way that Council can be “....*satisfied that the proposed modification is of minimal environmental impact* ” for the following reasons: -

- The modification seeks to certify the as built setbacks and floor levels of the approved development.
- The modified development is contained within the development site to which Development Consent No. DA-209/2018 relates.
- The original development to which Development Consent No. DA-209/2018 was granted is described as “*Division 8.2 Review of Council’s Refusal for Demolition of Existing Site Structures and Construction of an Attached Dual Occupancy with Basement Level and Torrens Title Subdivision*”. The proposed modification remains within the development description.
- The approved overall building height and total GFA of the modification (i.e. the urban form and scale) are within the planning controls prescribed for the site.



- The approved overall site design and layout of the the modification (i.e. the landscaped area and hard scape ratio) are not proposed to change with the modification.
- The approved use (residential) is not proposed to change with the modification (residential).

The modification is therefore considered to be of minimal environmental impact.

*(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

**Comment:**

The following court cases provide a useful guide to the application of Modifications to consents and “(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”

- Trinity Grammar School v Ashfield Council [2015] NSWLEC 1086,
- Innerwest 888 Pty Ltd v Canterbury Bankstown Council [2017] NSWLEC 1241 et al; and
- DL Newport Pty Ltd v Northern Beaches Council [2017] NSWLEC 1661

The cases in particular test “(b) ...substantially the same development” with each case concluding that the applications were not substantially the same development (noting that this was not the basis for any of the cases presented before the courts).

The conclusions in each case refer to qualitative and quantitative assessments generally as guided by Moto Projects (No. 2) Pty Limited v North Sydney Council [1999] NSWLEC 280 where, at paras 55 and 56, Bignold J (in Innerwest 888 Pty Ltd v Canterbury Bankstown Council [2017] NSWLEC 1241) described the process for consideration of proposed modification of development as follows:

*55. The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (currently) approved development.*

*56. The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where*

*that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).*

Trinity Grammar School v Ashfield Council [2015] NSWLEC 1086 and Innerwest 888 Pty Ltd v Canterbury Bankstown Council [2017] NSWLEC 1241 also refer to the findings of Stein J in Vacik Pty Ltd v Penrith City Council [1992] NSW LEC 8, where it is noted that the applicant for modification bears the onus of showing that the modified development is substantially the same.

The proposal is therefore presented to in a way that Council can be satisfied that “...the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted....” for the following reasons:

- The modified development is contained within the development site to which Development Consent No. DA-209/2018 relates.
- The original development to which Development Consent No. DA-209/2018 was granted is described as *“Division 8.2 Review of Council’s Refusal for Demolition of Existing Site Structures and Construction of an Attached Dual Occupancy with Basement Level and Torrens Title Subdivision”*. The proposed modification remains within the development description.
- The approved overall building height and total GFA of the modification (i.e. the urban form and scale) are within the planning controls prescribed for the site.
- The approved overall site design and layout of the the modification (i.e. the landscaped area and hard scape ratio) are not proposed to change with the modification.
- The approved use (residential) is not proposed to change with the modification (residential).

The modification is therefore considered to be substantially the same as the development for which consent was originally granted.

- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or*



*advertising of applications for modification of a development consent,  
and*

**Comment:** The application is to be notified in accordance with the regulations.

*(d) it has considered any submissions made concerning the proposed  
modification within the period prescribed by the regulations or provided  
by the development control plan, as the case may be.*

**Comment:** We do not anticipate any submissions from neighbouring properties.

*(3) In determining an application for modification of a consent under this  
section, the consent authority must take into consideration such of the matters  
referred to in section 4.15 (1) as are of relevance to the development the subject  
of the application.*

**Comment:** Refer to assessment below.

## **Considerations under section 4.15 of the Environmental Planning & Assessment (EP&A) Act 1979**

### **(a)(i) – Provisions of any environmental planning instrument**

#### **State Environmental Planning Policies**

**The following State Environmental Planning Policies are applicable to the  
land:**

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

##### Chapter 4 Remediation of Land

The site has been approved as suitable for residential purposes and does not  
require remediation under the *Contaminated land Management Act 1997*.

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

Amended BASIX Certificates maybe requested by the Certifier for the  
amendments, if required

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

##### Chapter 2 Infrastructure

The site is not fronting or adjacent to a rail corridor, classified road or within the vicinity of a telecommunications structure requiring consideration under the SEPP.

## **Bankstown Local Environmental Plan (LEP) 2015**

**Bankstown Local Environmental Plan 2015, applies to this parcel of land in particular:**

### **2.1 – 2.3 Zoning**

Zone is R2 – Low Density Residential. The development (Dual Occupancy) has been approved as a permissible use with consent DA-209/2018/1. The modification does not seek to change the proposed use. The use complies with the objectives of the zone which seek to:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow for certain non-residential development that is compatible with residential uses and does not adversely affect the living environment or amenity of the area.*
- *To allow for the development of low density housing that has regard to local amenity.*
- *To require landscape as a key characteristic in the low density residential environment.*

### **2.7 – Demolition**

The modification does not seek to change the demolition approved in DA-209/2018/1.

### **4.1A Minimum lot sizes and special provisions for dual occupancies**

*(2) Development consent must not be granted to development for the following purposes—*

- (a) a dual occupancy (attached) on a lot in Zone R2 Low Density Residential unless the lot has an area of at least 500 square metres and is at least 15 metres wide at the front building line,*
- (b) a dual occupancy (detached) on a lot in Zone R2 Low Density Residential unless the lot has an area of at least 700 square metres and is at least 20 metres wide at the front building line,*
- (c) a dual occupancy on a lot being land identified as “Area 2” on the [Special Provisions Map](#).*

*(3) Despite subclause (2), development consent must not be granted to development for the purpose of a dual occupancy unless the consent authority is satisfied that each dwelling will have a frontage to a road.*

*(4) The consent authority may grant development consent for the subdivision of—*

- (a) a dual occupancy (attached), if the size of each lot to be created will be at least 250 square metres, or*
- (b) a dual occupancy (detached), if the size of each lot to be created will be at least 350 square metres.*

The modification does not change the site area or subdivision proposed in that approved in DA-209/2018/1.

#### **4.3 – Height of Buildings**

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The **maximum building height** permitted for this site is 9m.*

The modification shows a maximum height of less than 9m (0.52 higher than the approved development) which is lower than the height permitted by LEP.

#### **4.4 – Floor space ratio**

*(2) 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](#). The maximum floor area permitted for this site is 0.5:1. The modification does not proposed a change to the FSR which is consistent with that permitted by the LEP and approved in DA-209/2018/1.*

### **(a)(ii) – Provisions of any draft environmental planning instrument**

#### SEPP (Environment)

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. These areas are important to communities in delivering opportunities for physical health, economic security and cultural identity.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. These environmental policies will be accessible in one location and updated to reflect changes that have occurred since the creation of the original policies.

#### Proposed SEPP (Design and Place)

The Government is bringing planning processes up to date and making them easier. The new Design and Place State Environmental Planning Policy (DP SEPP) 2021 and supporting guides are part of a broader review of all SEPPs. It aims to simplify and consolidate how to address the need for sustainable and resilient places and deliver good design in NSW.

The DP SEPP puts sustainability, resilience, and quality of places at the forefront of development. Our shared responsibility to sustain healthy and thriving communities, and to care for our environment underpins the policy. The DP SEPP will apply to all of NSW and spans places of all scales, from precincts,

large developments and buildings to infrastructure and public space (other than specified exclusions).

Though the DRAFT SEPPs have been taken into consideration when preparing this proposal, the provisions of existing planning controls still apply (and have been applied in this proposal).

The modification is not affected by the proposed SEPPs

#### Consolidated Local Environmental Plan and Supporting Studies

In 2019, Council released *Connective City 2036*, which establishes a single strategic planning vision for the Canterbury Bankstown Local Government Area and will guide any changes to our planning framework.

This vision is about sustainably growing our City, protecting environmental values, delivering housing for our next generations and maximising employment opportunities.

The next step is to produce a single set of planning rules for our City based on the vision that was set by *Connective City 2036*. This is the Consolidated Local Environmental Plan, which combines and aligns planning rules of the former Bankstown and Canterbury Councils.

A planning proposal was endorsed by the Canterbury Bankstown Local Planning Panel to progress to exhibition on 6 March 2020. The planning proposal and supporting technical studies are now on public exhibition for comment and feedback.

The Consolidated Local Environmental Plan and Supporting Studies does not fundamentally change the proposed development.

#### Consolidated Development Control Plan and Guides

At the Canterbury Bankstown Local Planning Panel meeting on 30 June 2020, the Panel adopted the Draft Consolidated Local Environmental Plan (LEP) to produce a single set of planning rules for the Canterbury Bankstown Local Government Area. Council is awaiting the finalisation of the Draft LEP by the Department of Planning, Industry and Environment.

At the Ordinary Meeting on 8 December 2020, Council resolved to exhibit the Draft Consolidated Development Control Plan (DCP) and Guides to support the Draft LEP.

The next step is to exhibit the following documents for comment and feedback until *Friday 5 March 2021*.

The DRAFT Consolidated Development Control Plan and Guides do not fundamentally change the approved development or the proposed modification.

### **(a)(iii) – Provisions of any development control plan**

#### **Bankstown Development Control Plan (DCP) 2015**

Bankstown Development Control 2013 is applicable to the site.

While the DCP is a relevant consideration when making a determination of this proposal, Council is reminded that the proclamation of the Environmental Planning and Assessment Amendment Act 2012 on 1 March 2013 confirmed the status and weight that should be placed on development control plans when making a determination of a development application.

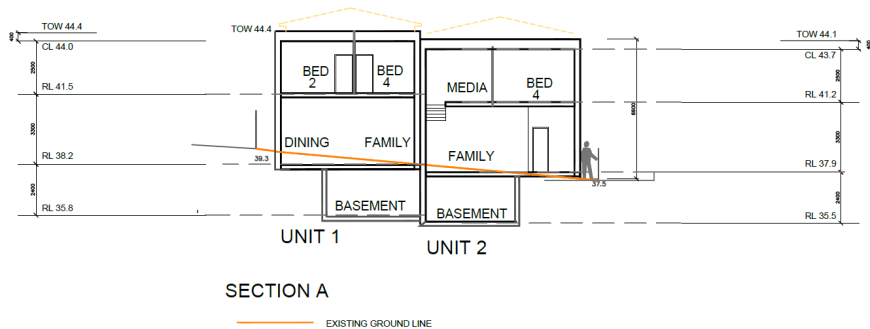
The amendments to the Environmental Planning and Assessment Act 1979 clarified the purpose, status and content of development control plans (DCPs), and how they are to be taken into account during the development assessment process. The Amendment Act makes it clear that the ***principal purpose of a DCP is to provide guidance to a consent authority*** on land to which the DCP applies.

The Amendment Act reinforces that the ***provisions contained in a DCP are not statutory requirements and are for guidance purposes only***. Furthermore, it should be noted that the weight a consent authority gives to a DCP in assessing a development application will depend on a number of factors, including whether the DCP provides a sensible planning outcome. The Amendment Act confirms that Council can confidently apply development control plans ***flexibly*** and if a development application does not comply with provisions in a DCP, a consent authority ***must be flexible*** in the way it applies the controls and also allow for reasonable alternative solutions to achieve the objectives of those standards.

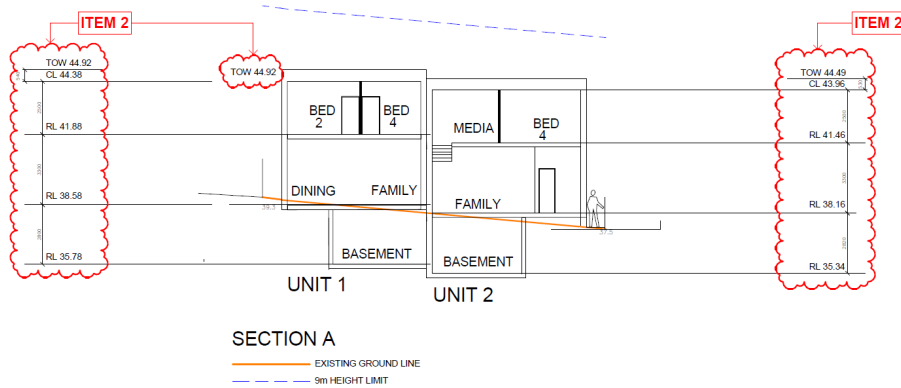
In particular, the following volumes apply:

**Table 1: Compliance with Bankstown Development Control Plan Part B1 – Residential Development**

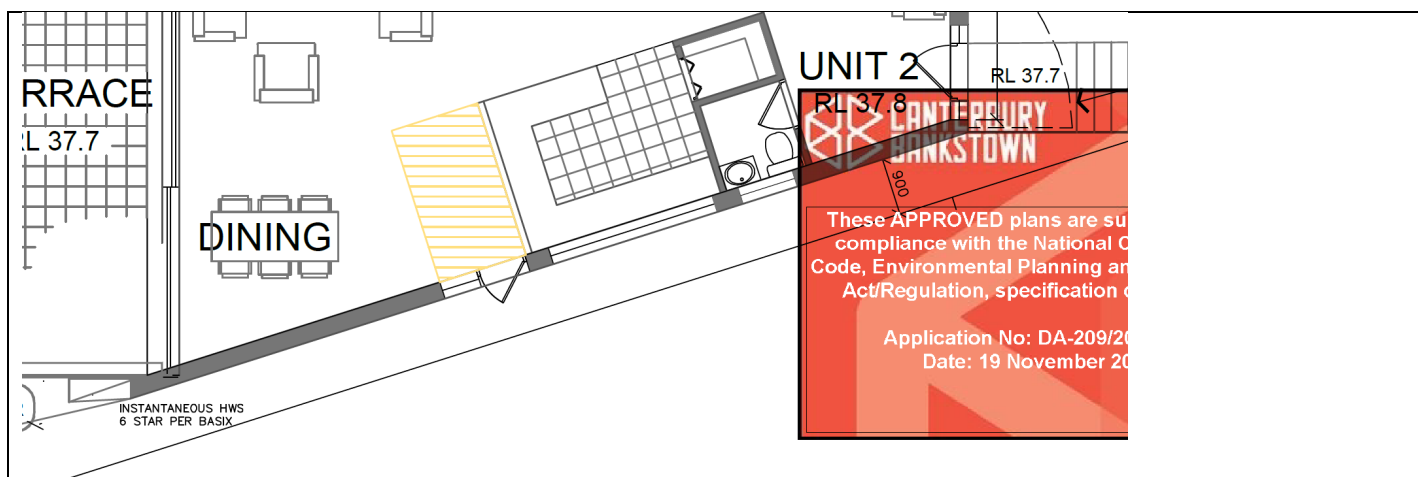
<b>Subdivision</b>	
<b>4.1</b> The two dwellings forming a dual occupancy (attached) may be subdivided to a minimum lot size of 250m <sup>2</sup> per dwelling.	No change is proposed by the modification
<b>4.2</b> The two dwellings forming a dual occupancy (detached) may be subdivided to a minimum lot size of 350m <sup>2</sup> per dwelling.	No change is proposed by the modification
<b>4.3</b> For development that establishes a dual occupancy and a secondary dwelling on the same	No change is proposed by the modification

allotment, the two dwellings forming the dual occupancy may be subdivided provided the minimum lot size is 450m <sup>2</sup> per dwelling.	
<b>Storey limit (not including basements)</b>	
<b>4.4</b> The storey limit for dual occupancies is 2 storeys. In addition, dual occupancies in the foreshore protection area (refer to map in Appendix 1) must ensure the wall height does not exceed 7 metres and the building height does not exceed 9 metres.	No change is proposed by the modification
<b>4.5</b> The siting of dual occupancies, and landscaping works must be compatible with the existing slope and contours of the allotment and any adjoining property.  Council does not allow any development that involves elevated platforms on columns; or excessive or unnecessary terracing, rock excavation, retaining walls or reclamation.	No change is proposed by the modification
<b>4.6</b> Any reconstituted ground level on the allotment must not exceed a height of 600mm above the ground level (existing) of an adjoining property except where: (a) the dual occupancy is required to be raised to achieve a suitable freeboard in accordance with Part B12 of this DCP; or (b) the fill is contained within the ground floor perimeter of the dual occupancy to a height no greater than 1 metre above the ground level (existing) of the allotment.	ITEM 2 Building levels amended as per as-built survey provided by Sydney Registered Surveyors
<p>Approved development</p>  <p>SECTION A</p> <p>— EXISTING GROUND LINE</p> <p>The diagram shows a cross-section of two adjacent units, Unit 1 and Unit 2. Unit 1 has a basement, dining, family, and two bedrooms (BED 2 and BED 4). Unit 2 has a basement, family, media, and a bedroom (BED 4). The existing ground line is shown as a dashed line. Various levels are marked: TOW 44.4, CL 44.0, RL 41.5, RL 38.2, RL 35.8, TOW 44.1, CL 43.7, RL 41.2, RL 37.9, and RL 35.5. A person is shown standing on the ground level for scale.</p>	
Modification	

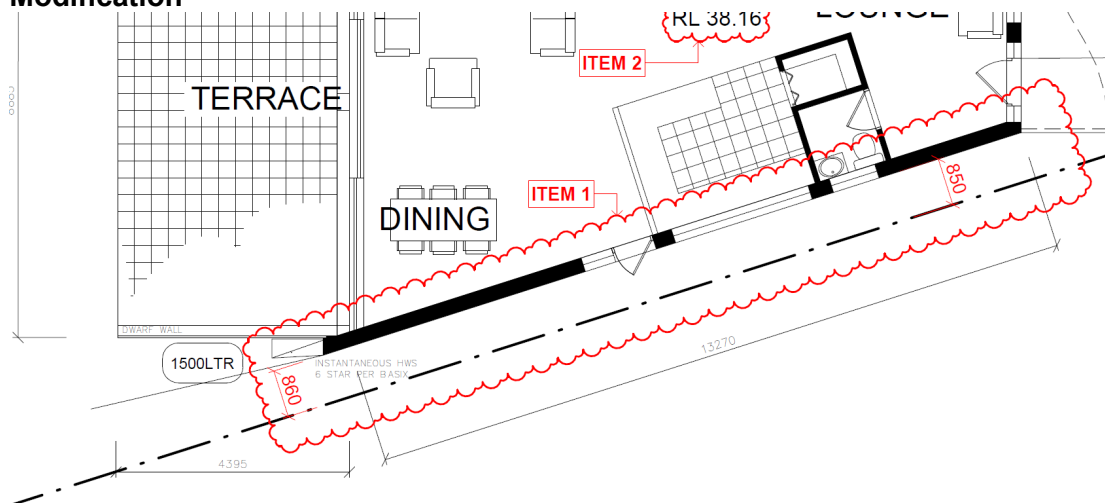




<b>Setback restrictions</b>	
<b>4.7</b> The erection of dual occupancies is prohibited within 9 metres of an existing animal boarding or training establishment.	No change is proposed by the modification
<b>Setbacks to the primary and secondary road frontages</b>	
<b>4.8</b> The minimum setback for a building wall to the primary road frontage is: (a) 5.5 metres for the first storey (i.e. the ground floor); and (b) 6.5 metres for the second storey.	No change is proposed by the modification
<b>4.9</b> The minimum setback to the secondary road 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.	No change is proposed by the modification
<b>Setbacks to the side boundary</b>	
<b>4.10</b> 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 boundary of the allotment is 0.9 metre. Council may increase the minimum setback to reduce any impact on the amenity of an adjoining dwelling or to avoid the drip line of a tree on an adjoining property.	ITEM 1 Side setback of external wall along western boundary reduced from approved 900mm to 850-860mm setback as per as-built survey provided by Sydney Registered Surveyors  The modification does not have any impact on the amenity of the neighboring dwelling due to the floor level (1.5mFFL) and type of windows (fire solution) to the side façade (privacy). No trees are to be removed to comply with the side setback.
<b>4.11</b> For the portion of the building wall that has a wall height greater than 7 metres, the minimum setback to the side boundary of the allotment is 1.5 metres.	The wall height is not more than 7m.
<b>4.12</b> The minimum setback between a dual occupancy and the side boundary must be clear of obstacles such as a hot water unit, waste storage area, storage shed and the like	The side setback is clear of obstacles such as a hot water unit, waste storage area, storage shed and the like
<b>4.13</b> The basement level must not project beyond the ground floor perimeter of the Dual Occupancy	No change is proposed by the modification
<b>Approved Development</b>	



## Modification



## Private open space

**4.14** Dual occupancies must provide a minimum 80m<sup>2</sup> of private open space per dwelling behind the front building line. This may be in the form of a single area or a sum of areas per dwelling provided the minimum width of each area is 5 metres throughout.

No change is proposed by the modification

## Access to sunlight

**4.15** At least one living area of each dwelling 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.

No change is proposed by the modification

**4.16** At least one living area of a dwelling on an adjoining allotment 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.

No change is proposed by the modification

**4.17** A minimum 50% of the private open space required for each dwelling and a minimum 50% of the private open space of a dwelling on an adjoining

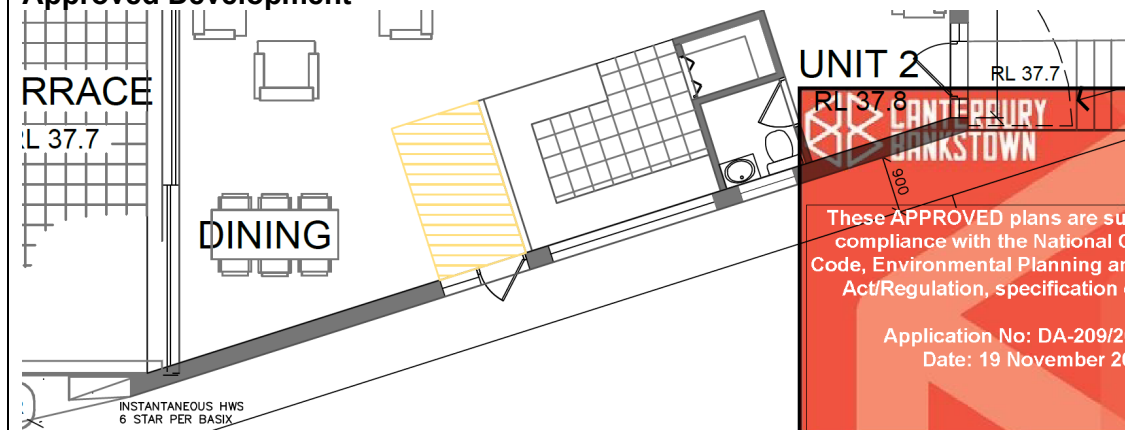
No change is proposed by the modification

allotment 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 allotment, the development must not result with additional overshadowing on the affected private open space	
<b>4.18</b> Development should avoid overshadowing any existing solar hot water system, photovoltaic panel or other solar collector on the allotment and neighbouring properties.	No change is proposed by the modification

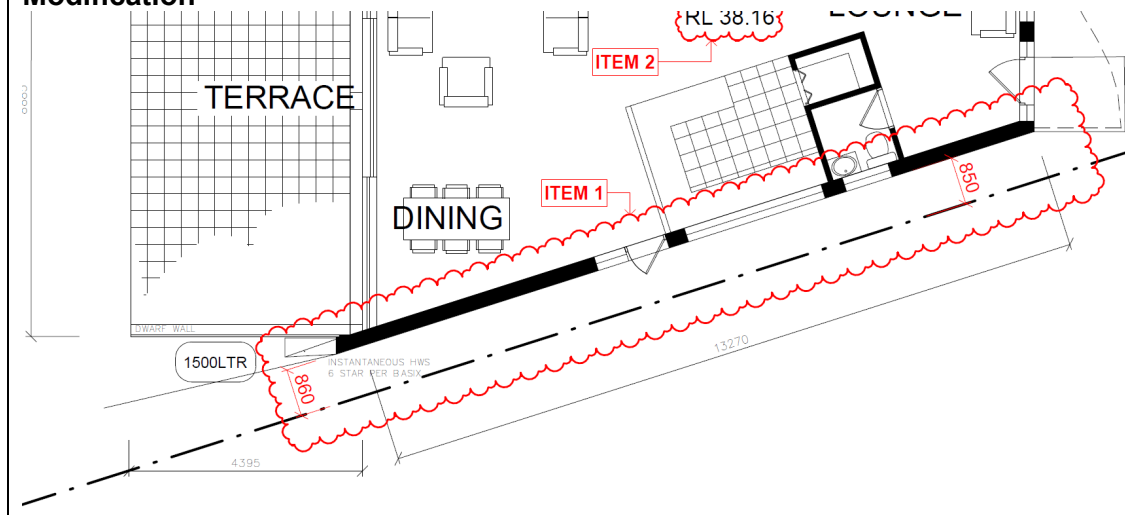
### Visual privacy

<b>4.19</b> 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.	ITEM 1 Side setback of external wall along western boundary reduced from approved 900mm to 850-860mm setback as per as-built survey provided by Sydney Registered Surveyors  The modification does not have any impact on the amenity of the neighboring dwelling due to the floor level (1.5mFFL) and type of windows (fire solution) to the side façade (privacy).
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### Approved Development



### Modification



<p><b>4.20</b> Where development proposes a window that directly looks into the private open space of an existing dwelling, the window does not require screening where:</p> <p>(a) the window is to a bedroom, bathroom, toilet, laundry, storage room, or other non-habitable room; or</p> <p>(b) the window has a minimum sill height of 1.5 metres above floor level; or</p> <p>(c) the window has translucent glazing to a minimum height of 1.5 metres above floor level; or</p> <p>(d) the window is designed to prevent overlooking of more than 50% of the private open space of a lower-level or adjoining dwelling.</p>	No change is proposed by the modification
<p><b>4.21</b> Council may allow dual occupancies 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:</p> <p>(a) does not have an external staircase; and</p> <p>(b) does not exceed a width of 1.5 metres throughout; and</p> <p>(c) incorporates a form of screening to the satisfaction of Council such as partially recessing the balcony into the building.</p>	No change is proposed by the modification
<p><b>4.22</b> Council does not allow dual occupancies to have roof-top balconies and the like.</p>	No change is proposed by the modification
<b>Building design</b>	
<p><b>4.23</b> Development for the purpose of dual occupancies must demolish all existing dwellings (not including any heritage items) on the allotment.</p>	No change is proposed by the modification
<p><b>4.24</b> The design of dual occupancies must ensure:</p> <p>(a) the street facade of dual occupancies (attached) adopt an asymmetrical design to provide each dwelling with an individual identity when viewed from the street; or</p> <p>(b) the street facade of dual occupancies (attached) or dual occupancies (detached) incorporate architectural elements that are compatible with the asymmetrical appearance of neighbouring dwelling houses, particularly where a pattern is established by a group of adjoining dwelling houses; and</p> <p>(c) the front porch and one or more living area or bedroom windows to each dwelling face the street; and</p> <p>(d) the garage, driveway and front fence do not dominate the front of the building and front yard; and</p> <p>(e) the two dwellings on a corner allotment each face a different frontage.</p>	No change is proposed by the modification
<p><b>4.25</b> The maximum roof pitch for dual occupancies is 35 degrees</p>	No change is proposed by the modification
<p><b>4.26</b> Council may allow dual occupancies to have an attic provided the attic design:</p> <p>(a) accommodates no more than two small rooms (for the purposes of a bedroom and/or study) and a</p>	No change is proposed by the modification

bathroom plus an internal link to the storey below; and (b) ensures the attic does not give the external appearance of a storey.	
<b>4.27</b> 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.	No change is proposed by the modification
<b>4.28</b> Development in the foreshore protection area (refer to map in Appendix 1) must use non-reflective materials that are compatible with the natural characteristics and colours of the area (such as olive green, grey and dark brown).	No change is proposed by the modification
<b>Building design (car parking)</b>	
<b>4.29</b> Development on land bounded by Birdwood Road, Bellevue Avenue and Rex Road in Georges Hall must: (a) comply with the road pattern shown in Appendix 2; and (b) ensure vehicle access from Balmoral Crescent to land at Nos. 107–113 Rex Road in Georges Hall is provided for no more than 10 dwellings as shown in Appendix 3.	No change is proposed by the modification
<b>4.30</b> Development must locate the car parking spaces behind the front building line with at least one covered car parking space for weather protection. Despite this clause, Council may allow one car parking space per dwelling to locate forward of the front building line provided: (a) the car parking space forward of the front building line is uncovered and located in a stacked arrangement on the driveway in front of the covered car parking space; and (b) the covered car parking space is setback a minimum 6 metres from the primary and secondary frontages.	No change is proposed by the modification
<b>4.31</b> Where development proposes a garage with up to two car parking spaces facing the street, Council must ensure the garage architecturally integrates with the development and does not dominate the street facade. Council does not permit internal stacked or tandem garages.	No change is proposed by the modification
<b>4.32</b> Where development proposes a garage with more than two car parking spaces facing the street, Council must consider the architectural merit of the development and may allow the garage provided: (a) the building is at least 2 storeys in height, and (b) the garage is architecturally integrated with the upper storey by:	No change is proposed by the modification

<p>(i) ensuring the garage does not project more than 3 metres forward of the upper storey street facade; and</p> <p>(ii) designing a covered balcony, rooms or other architectural features of the upper storey to extend over the garage roof.</p> <p>This clause prevails where there is a numerical inconsistency with another clause in Part B1 of this DCP.</p>	
<b>Landscaping</b>	
<b>4.33</b> Development must retain and protect any significant trees on the allotment and adjoining allotments. To achieve this clause, the development may require a design alteration or a reduction in the size of the dual occupancy.	No change is proposed by the modification
<p><b>4.34</b> Development must landscape the following areas on the allotment by way of trees and shrubs with preference given to native vegetation endemic to the City of Bankstown (refer to Appendix 4 and Appendix 5 for a list of suitable species):</p> <p>(a) a minimum 45% of the area between the dual occupancy and the primary road frontage; and</p> <p>(b) a minimum 45% of the area between the dual occupancy and the secondary road frontage; and</p> <p>(c) plant at least one 75 litre tree between the dual occupancy and the primary road frontage (refer to Appendix 5 for a list of suitable trees in the City of Bankstown or Appendix 6 for allotments that adjoin the Hume Highway); and</p> <p>(d) for development in the foreshore protection area (refer to map in Appendix 1), plant native trees with a mature height greater than 12 metres adjacent to the waterbody.</p>	No change is proposed by the modification

**Table 2: Compliance with Bankstown Development Control Plan Part B5  
– Parking**

<b>SECTION 2–OFF STREET PARKING</b>					
<p><b>2.1</b> Development must calculate the amount of parking required using the schedule of off–street parking requirements.</p> <p><b>Schedule: Off–street parking requirements</b></p> <table> <tr> <th>Land use</th><th>Off–street parking requirements</th></tr> <tr> <td>Dual occupancies</td><td>1 car space per 2 or less bedrooms; or 2 car spaces per 3 or more bedrooms.</td></tr> </table>	Land use	Off–street parking requirements	Dual occupancies	1 car space per 2 or less bedrooms; or 2 car spaces per 3 or more bedrooms.	No change is proposed by the modification
Land use	Off–street parking requirements				
Dual occupancies	1 car space per 2 or less bedrooms; or 2 car spaces per 3 or more bedrooms.				
<p><b>2.2</b> Development not included in the schedule of car parking standards must submit a parking study for Council's consideration. A qualified traffic consultant must prepare the parking study.</p>	No change is proposed by the modification				



<b>2.3</b> Car parking and driveway access in flood liable land in the City of Bankstown must be in accordance with Part B12–Flood Risk Management of this DCP.	N/A. The site is not identified as being flood affected.
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### SECTION 3–OFF STREET PARKING DESIGN AND LAYOUTS

#### Parking location

<b>3.1</b> Refer to Part B1 of this DCP for information on the location of garages and carports in the residential areas.	No change is proposed by the modification
<b>3.2</b> Parking areas for people with disabilities should be close to an entrance to development. Access from the parking area to the development should be by ramps or lifts where there are separate levels.	No change is proposed by the modification

#### Parking bay dimensions for people with disabilities and residential garages

3.4 Parking bay dimensions for people with disabilities and residential garages are as follows:		No change is proposed by the modification	
Parking Type	L (m)	W (m)	Comments
Disabled (900)	6.0	3.2	
Basement parking and single garage	5.5	3	Clear door opening of 2.4m between door jambs
Double garage in residential development	5.5	5.4	Clear door opening of 4.8m between door jambs.

### SECTION 4–OFF STREET PARKING ACCESS AND CIRCULATION

#### Access driveway width and design

<b>4.1</b> The location of driveways to properties should allow the shortest, most direct access over the nature strip from the road	No change is proposed by the modification						
<b>4.2</b> The appropriate driveway width is dependent on the type of parking facility, whether entry and exit points are combined or separate, the frontage road type and the number of parking spaces served by the access facility.	No change is proposed by the modification						
<b>4.3</b> Driveway widths for existing dwellings and extensions to the existing properties are assessed on their merits.	No change is proposed by the modification						
<b>4.4</b> For new residential development, necessary clear driveway widths are provided in the following table:							
<table border="1"> <thead> <tr> <th>Driveway width</th><th>Minimum Clear Width</th></tr> </thead> <tbody> <tr> <td>One-way</td><td>3.0 m</td></tr> <tr> <td>Two-way</td><td>5.5 m</td></tr> </tbody> </table>	Driveway width	Minimum Clear Width	One-way	3.0 m	Two-way	5.5 m	
Driveway width	Minimum Clear Width						
One-way	3.0 m						
Two-way	5.5 m						
<b>4.5</b> Driveway widths will need to be increased adjacent to parking bays according to AS 2890.1 to provide adequate turning circles.	No change is proposed by the modification						

#### Queuing distance

<b>4.6</b> Parking studies are necessary to determine minimum queuing length for developments fronting state roads	No change is proposed by the modification				
<table border="1"> <thead> <tr> <th>Use</th><th>Queuing Distance</th></tr> </thead> <tbody> <tr> <td>Residential and mixed use</td><td>Absolute minimum 6m;</td></tr> </tbody> </table>	Use	Queuing Distance	Residential and mixed use	Absolute minimum 6m;	
Use	Queuing Distance				
Residential and mixed use	Absolute minimum 6m;				

	Desirable minimum 7.5m
Drive-in take away	8 spaces (each approx. 8 m long) in a marked lane for the exclusive use of drivers; plus 7 additional queue spaces at the end of the marked queue lane to be within the site.
<b>4.7</b> The queuing area between the vehicular control point and the property boundary should be sufficient to allow a free influx of traffic which will not adversely affect traffic or pedestrian flow in the frontage road.	No change is proposed by the modification
<b>SECTION 5–OTHER CONSIDERATIONS</b>	
<b>Sight distance requirement</b>	
<b>5.8</b> For all development, adequate sight distance must be provided for vehicles exiting driveways. Clear sight lines are to be provided at the street boundary to ensure adequate visibility between vehicles on the driveway and pedestrians on the footway and vehicles on the roadway. Refer to Australian Standard 2890.1 for minimum sight distance requirements.	No change is proposed by the modification

**Table 3: Compliance with Bankstown Development Control Plan Part B12 – Waste Management and Minimisation**

<b>SECTION 2–DEMOLITION AND CONSTRUCTION</b>	
<b>1.1</b> All development applications are to be accompanied by a Waste Management Plan prepared in accordance with the Waste Management Guide for New Developments and the Bankstown Demolition and Construction Guidelines.	No change is proposed by the modification
<b>SECTION 4–RESIDENTIAL DEVELOPMENT</b>	
<b>2.1</b> Each dwelling is to have a waste storage cupboard in the kitchen capable of holding two days waste and recycling and be sufficient to enable separation of recyclable materials	No change is proposed by the modification
<b>2.2</b> Development must provide a bin storage area. The bin storage area must be of adequate size to accommodate all allocated bins.	No change is proposed by the modification
<b>2.3</b> The location of the bin storage area should not adversely impact on the streetscape, building presentation or amenity of occupants and adjoining dwellings.	No change is proposed by the modification
<b>2.4</b> The location of the bin storage area should ensure this area: (a) is screened or cannot be viewed from the public domain; and (b) is away from windows of habitable rooms to reduce adverse amenity impacts associated with noise and odour	No change is proposed by the modification
<b>2.5</b> The location of the bin storage area is to be convenient to use for the dwelling occupants, through reducing the bin travel distance from the bin storage area to the nominated kerbside collection point. The bin–carting route from the bin storage area to the	No change is proposed by the modification

collection point must not pass through any internal rooms of the dwelling and must avoid stairs or slopes.	
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### **(a)(iia) – Provisions of any planning agreement**

There is no planning agreement in conjunction with this proposal.

### **(a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)**

The Application has been made in accordance with the relevant matters prescribed by the Regulations.

### **(b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality**

(i) The environmental impacts of the proposed modification on the natural and built environment are addressed under the Development Control Plan section in this report and are satisfactory.

(ii) The proposed modification will not have a detrimental social impact in the locality considering the nature of the proposal.

(iii) The proposed modification will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.

### **(c) – the suitability of the site for the development**

The site is considered suitable for the modified development.

### **(d) – any submissions made in accordance with the EP&A Act or EP&A Regulation**

This application will be subject to public comment in the usual manner, as outlined in the Development Control Plan, however it is not anticipated that this process will raise any significant objections if any. We do not anticipate any submissions from neighbouring properties.

### **(e) – the public interest**

The modified development is within the public interest.

## **Conclusion**

The proposed modification has been designed in a way that it addresses the site abilities, whilst taking into the constraints of the site to satisfactorily demonstrate compliance with the Environmental Planning and Assessment Act 1979 and Council's local planning instruments and guidelines.

Accordingly, this Modified Development Application is submitted in the belief that it deserves council's favourable consideration.

Yours Faithfully,

Tania Hannaford (BURP, Dip.Proj.Management, Cert IV NatHERS Assessment)

**Plan for Tomorrow**

*Plan for Tomorrow has not undertaken a site visit for the purposes of this report. This report is provided exclusively for the purposes described in this report. No liability is extended for any other use or to any other party. The report is based on conditions prevailing at the time of the report and information provided by the client. The report is only for which the land to which the report relates and only for the day it is issued. This report should be read in conjunction with submitted documents and plans relevant to the Development Application*

