
STATEMENT OF ENVIRONMENTAL EFFECTS

SECTION 4.55(1A) MODIFICATION TO DA-172/2017

106 HOMER STREET, EARLWOOD





ABN: 30 605 941 482
PHONE: (02) 8706 9797
EMAIL: info@planzone.com.au
WEB: planzone.com.au
POST: PO Box 3, Liverpool NSW 1871

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LEGISLATION CHECKLIST

STATE ENVIRONMENTAL PLANNING POLICY	APPLICABLE?
SEPP NO 65 - DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT	N/A
SEPP (BUILDING SUSTAINABILITY INDEX: BASIX) 2004	N/A
SEPP (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008	N/A
SEPP (BIODIVERSITY AND CONSERVATION) 2021	✓
SEPP (HOUSING) 2021	N/A
SEPP (INDUSTRY AND EMPLOYMENT) 2021	N/A
SEPP (PLANNING SYSTEMS) 2021	N/A
SEPP (PRECINCTS - CENTRAL RIVER CITY) 2021	N/A
SEPP (PRECINCTS - EASTERN HARBOUR CITY) 2021	N/A
SEPP (PRECINCTS - REGIONAL) 2021	N/A
SEPP (PRECINCTS - WESTERN PARKLAND CITY) 2021	N/A
SEPP (PRIMARY PRODUCTION) 2021	N/A
SEPP (RESILIENCE AND HAZARDS) 2021	✓
SEPP (RESOURCES AND ENERGY) 2021	N/A
SEPP (TRANSPORT AND INFRASTRUCTURE) 2021	✓



1 INTRODUCTION

This Statement of Environmental Effects has been prepared to accompany the modification application to City of Canterbury Bankstown Council seeking consent for modification of development consent DA-172/2017 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 to reconfigure the approved office premises addition, internal reconfiguration, and relocation of porch at 106 Homer Street, Earlwood.

This Statement of Environmental Effects has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act, 1979* (the Act) and Part 3 of the *Environmental Planning and Assessment Regulation, 2021* (the Regulation), and provides the following:

- Identifies any environmental impacts of the development.
- Indicates how any environmental impacts of the development have been identified;
- Outlines the steps to be taken to protect the environment or to lessen the expected harm to the environment; and
- Considers any matters required to be indicated by any guidelines issued by the Planning Secretary.

The subject modification application is requested following detailed design and requirements for various consultants, marketing purposes as well as requirements outlined by other professionals' post-approval of development application number DA-172/2017 which was approved by City of Canterbury Bankstown Council on 2 February 2018. The application is proposed to reconfigure the addition including internal reconfiguration of WC, lunchroom and staff breakout area of the premises.

Under the provisions of Section 4.55(1A) of the Act, the modifications sought in this application will result in substantially the same development as development for which consent under DA-172/2017 was originally granted as the development remains a single storey dwelling with an attached "office premises" fronting Homer Street with ancillary layout and car parking as approved and maintains the majority of the approved building envelope with alterations proposed that would not generate any substantive impacts different from the approved development.

The development achieves the objectives and satisfies the controls prescribed in *Canterbury-Bankstown Local Environmental Plan 2023* and *Canterbury-Bankstown Development Control Plan 2023* (the DCP).

This Statement of Environmental Effects undertakes an assessment of the proposal against the requirements and the matters for consideration under Sections 1.7, 4.15, 4.46 and 4.55 of the Act and should be read in conjunction with the plans and documents accompanying the application, including:

TITLE	REF NO	AUTHOR	REV	DATE
Coverpage	1.1	PLANZONE	01	21/07/2023
Existing Site Plan	1.2	PLANZONE	01	21/07/2023
Existing Floor Plan	1.3	PLANZONE	01	21/07/2023
Proposed Site Plan	1.4	PLANZONE	01	21/07/2023
Change Plan	1.5	PLANZONE	01	21/07/2023
Proposed Floor Plan	1.6	PLANZONE	01	21/07/2023
Proposed Roof Plan	1.7	PLANZONE	01	21/07/2023
Proposed Stormwater Plan	1.8	PLANZONE	01	21/07/2023
GFA Plan	1.9	PLANZONE	01	21/07/2023

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



TITLE	REF NO	AUTHOR	REV	DATE
Elevation	1.10	PLANZONE	01	21/07/2023
Elevation	1.11	PLANZONE	01	21/07/2023
Section	1.12	PLANZONE	01	21/07/2023
Section	1.13	PLANZONE	01	21/07/2023
Door & Window Schedule	1.14	PLANZONE	01	21/07/2023
Notification Plan	1.15	PLANZONE	01	21/07/2023
Notification Plan	1.16	PLANZONE	01	21/07/2023
Waste Management Plan	-	PLANZONE	01	10/07/2023

TABLE 1: SUPPORTING PLANS AND DOCUMENTATION

2 THE SITE AND SURROUNDS

ADDRESS: 106 Homer Street, Earlwood

LEGAL DESCRIPTION: Lot 1 in Deposited Plan 7366

SITE AREA: 695.5m²

DIMENSIONS:

BOUNDARY DIMENSION

Eastern: 18.82 metres

Western: 21.46 metres

Northern: 43.525 metres

Southern: 42.67 metres

ORIENTATION: The subject site is located on the north-eastern corner intersection of Homer Street and Bayview Avenue as illustrated in figure 1 below:

LOCATION MAP:

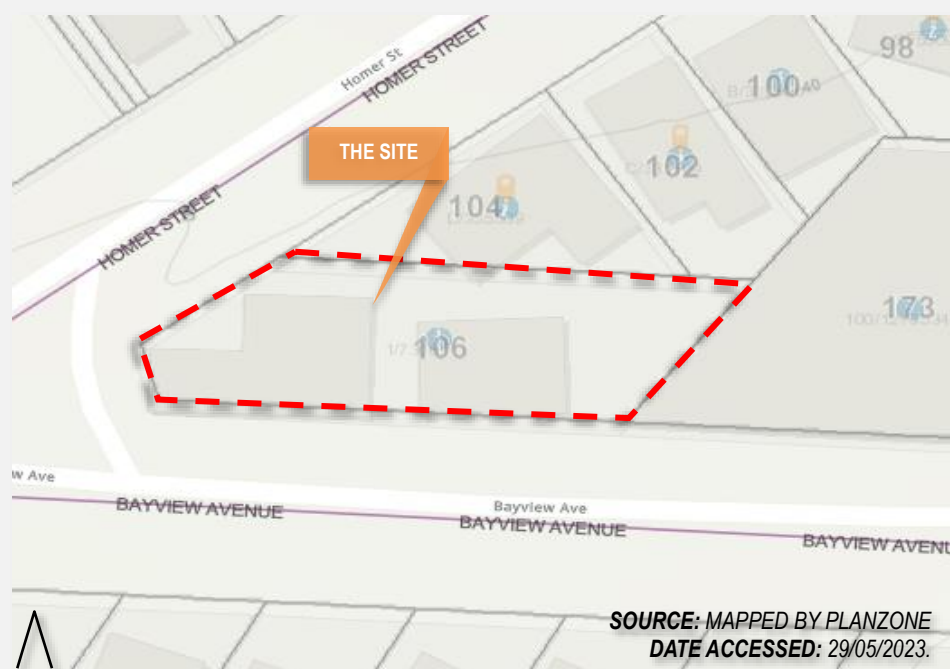


FIGURE 1: LOCATION MAP

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



AERIAL MAP:



FIGURE 2: AERIAL PHOTO

EXISTING IMPROVEMENTS:

The subject site contains a single storey dwelling with an attached *office premises* fronting Homer Street as illustrated below:



FIGURE 3: STREET VIEW OF PREMISES FROM HOMER STREET

LEGEND:
✓ COMPLIES
✗ DOES NOT COMPLY
S SATISFACTORY



FIGURE 4: EXISTING VEHICULAR CROSSING INTO REAR

SURROUNDS:

The surrounding area is characterised by low density residential developments on all sides with home business operations as illustrated in figure 5-7 below:



FIGURE 5: VIEW OF GREEK ORTHODOX CHURCH ADJOINING AT 175 BAYVIEW AVE.



FIGURE 6: VIEW OF ADJOINING PROPERTY AT 106 HOMER STREET.



FIGURE 7: VIEW OF PRIME PETROL STATION ADJACENT AT 108 HOMER STREET.

PAST USES AND DEVELOPMENT HISTORY:

A review of Council's DA Tracking system has revealed development application number DA-172/2017 was approved by Council on 2 February 2018 for alterations and additions to existing "office premises" and residence.

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



3 THE PROPOSAL

PROPOSED DEVELOPMENT:	This s4.55(1A) seeks consent for modification of development consent DA-172/2017 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 to reconfigure the approved office premises addition, internal reconfiguration, and relocation of porch.
DEFINED LAND USE:	office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.
SITE AREA:	695.5m ²
GROSS FLOOR AREA:	173.68m ²
FLOOR SPACE RATIO:	0.25:1
BUILDING HEIGHT:	No change, as approved in DA-172/2017.
FRONT SETBACK:	779mm to Homer Street
REAR SETBACK:	28.4 metres to rear boundary
SIDE SETBACKS:	2.211 meters to side boundary
CAR PARKING:	2 car spaces to be retained as previous consent DA-172/2017
LANDSCAPED AREA:	No change, as approved in DA-172/2017.
DEEP SOIL ZONE:	No change, as approved in DA-172/2017.
DEMOLITION:	No change, as approved in DA-172/2017.
EARTHWORKS:	No change, as approved in DA-172/2017.
STORMWATER:	The subject site does not propose changes to the existing stormwater system layout and approved stormwater works.
WASTE MANAGEMENT:	A Waste Management Plan accompanies this application.



FIGURE 8: PHOTO OF PARTIALLY CONSTRUCTED STRUCTURE

LEGEND:
✓ COMPLIES
✗ DOES NOT COMPLY
S SATISFACTORY



FIGURE 9: EXISTING RESIDENTIAL DWELLING TO BE RETAINED

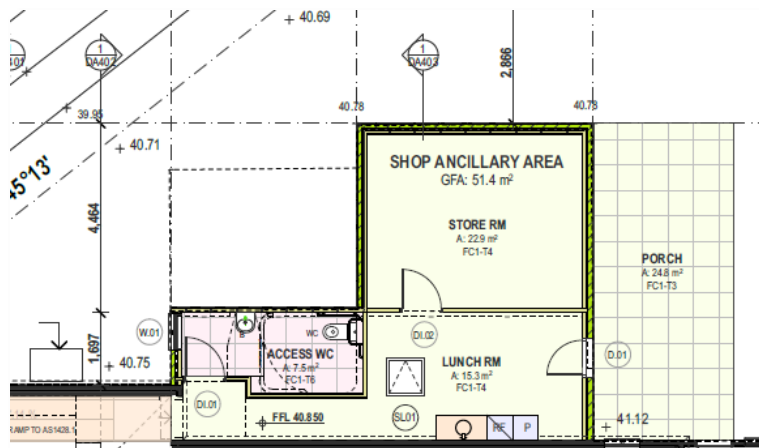


FIGURE 10: APPROVED FLOOR PLAN FROM DA-172/2017

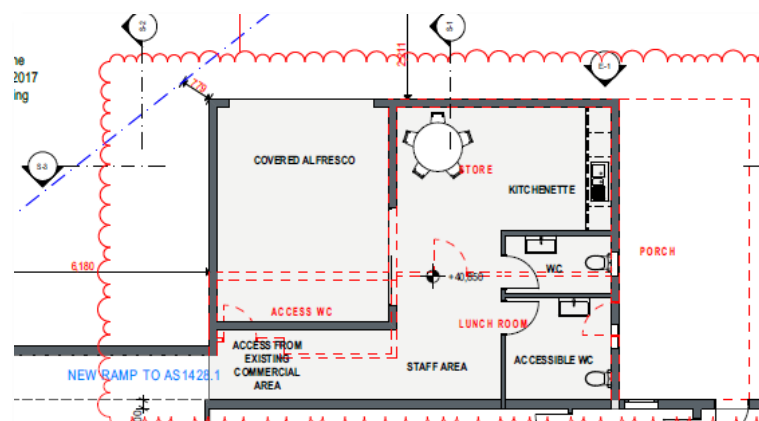


FIGURE 11: PROPOSED INTERNAL RECONFIGURATION

Refer to the architectural plans detailing the increase of footprint and internal reconfigurations proposed accompanying this DA.



4 SECTION 4.55 EVALUATION EP&A ACT, 1979

When considering an application under Section 4.55(1A) of the *Environmental Planning and Assessment Act, 1979*, Council must be satisfied as to the following matters:

- “(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
 - (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), and
 - (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
 - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.
- (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. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.”

The proposed modifications to the previously approved DA are listed below:

NO.	MODIFICATIONS PROPOSED
1	Increase the footprint of “office premises” ancillary area, lunchroom, W.C. room
2	Reconfiguration of internal layout.

TABLE 2: SCHEDULE OF PROPOSED MODIFICATIONS

The proposed modification will have minimal environmental impact on both the natural and built environments given the site location and its context and surrounding uses and as demonstrated by the assessment of the proposed modifications provided within this Statement. The modifications sought in this application will result in substantially (“essentially or materially having the same essence”: *Vacik Pty Ltd v Penrith City Council* (Land and Environment Court, Stein J, 24 February 1992); *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 43 NSWLR 468) the same development as development for which consent under DA-172/2017 granted by Council. The modified development remains the same as the approved proposed with regard to overall bulk and scale, setbacks, aesthetic treatment, appearance and environmental impacts.

LEGEND:
✓ COMPLIES
✗ DOES NOT COMPLY
S SATISFACTORY



Furthermore, the use and intensification of use on the site remains as approved for 1 dwelling and ancillary “office premises” which is maintained in the subject application.

The modifications proposed in this application do not radically transform the originally approved development (*Tipalea Watson Pty Ltd v Ku-ring-gai Council (2003) 129 LGERA 351*) with the development remaining sited and orientated as approved and substantially maintaining the approved building envelope apart from the changes discussed within this Statement which are within the reasonable parameters of a Section 4.55(1A) modification. The proposed modifications do not generate any substantively greater impacts from the approved development on both a quantitative and qualitative basis (*Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298*) with the proposal resulting in an unobtrusive structure that will complement the form of neighbouring dwellings.

On a quantitative basis, the development remains substantially the same development as the development for which consent was originally granted by Council in DA-172/2017, which was for a dwelling house and ancillary “business premises, office premises or shop”. Whilst there are some quantitative changes to the overall development, these changes do not substantially alter or radically transform the development from the development for which consent was originally granted by Council in DA-172/2017. Importantly, the quantitative changes do not generate any adverse impacts for neighbouring properties as detailed in the assessment provided within this Statement.

The proposed modifications are minor changes to an extent that would not change the overall development as approved and would not result in any changed perception of visual appearance of the development from the public domain, neighbouring properties or aerial view. The proposed modifications do not pose any adverse impacts for adjoining properties by way of visual and acoustic privacy, overshadowing or visual bulk and scale.

On a qualitative basis, the development being modified is substantially the same development as the development for which consent was originally granted by Council in DA-172/2017. The development generally remains sited as approved and maintains the approved building envelope with alterations proposed that would not generate any significantly different impacts from the approved development.

Consultation will not be required with any external agencies and the development is not integrated or designated development. It is expected that public notification of the application will be required and will be undertaken by Council as part of the assessment of the application in accordance with the regulations and Council’s policy. Any submission received against the proposal will be considered as part of the assessment.

This Statement of Environmental Effects contains an assessment of the proposal against the requirements and the matters for consideration under Sections 4.15(1) of the Act as are of relevance to the development the subject of the application.

Given the above, the application is considered to satisfy the test under Section 4.55(1A) of the Act.

5 SECTION 4.15 EVALUATION EP&A ACT, 1979

5.1 SECTION 4.15(1)(A) OF THE EP&A ACT, 1979

(i) SECTION 4.15(1)(A)(I)

THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

The following environmental planning instruments are applicable to this development as addressed below:

LEGEND:
✓ COMPLIES
✗ DOES NOT COMPLY
S SATISFACTORY



- ▶ State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- ▶ State Environmental Planning Policy (Resilience and Hazards) 2021;
- ▶ State Environmental Planning Policy (Transport and Infrastructure) 2021; and
- ▶ Canterbury-Bankstown Local Environmental Plan 2023.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021
STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021
STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

There are no provisions in the above SEPP's that are of relevance to this development. Previous development consent DA-172/2017 acts as primary consent, and this S4.55(1A) modification remain substantially the same as the original consent.

CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

Canterbury-Bankstown Local Environmental Plan 2023 (the LEP) is the principal environmental planning instrument that applies to the land and contains all the applicable development standards for the development of the site. An assessment against the applicable LEP provisions is provided below.

CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023			
CL	REQUIREMENT	PROPOSED	✓/✗
PART 1 - PRELIMINARY			
1.2	Aims of Plan	<p>The proposed development achieves the aims of the LEP in the following ways:</p> <ul style="list-style-type: none"> (c) The development does not pose any impacts on the Aboriginal, natural, cultural and built heritage of Canterbury-Bankstown; (d) The development is compatible with the desired future character and amenity of the locality, as demonstrated in this Statement; (e) The development is not proposed on land that is sensitive to urban and natural hazards; (f) The development maintains residential accommodation that will meet the changing needs of the population; (g) The development provides a business opportunity that will encourage local employment and economic growth; (j) The development achieves good urban design in terms of the site layout, building form, streetscape and public and private safety; (k) The development does not generate intensive car usage and traffic; (l) The development will not pose any cumulative impact on the health of the natural environment and waterways and on the capacity of infrastructure and the road network; (m) The development will support healthy living and enhance the quality of life and the social well-being and amenity of the community by allowing occupants of the dwelling to work from home; 	✓

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023			
CL	REQUIREMENT	PROPOSED	✓/✗
		(n) The development does not require any upgrades to existing infrastructure; and (o) The development has been designed in an ecologically sustainable manner.	
1.4	Definitions are contained in the dictionary	The proposed development is defined as a “office premises”.	✓
PART 2 - PERMITTED OR PROHIBITED DEVELOPMENT			
2.2	Zoning of Land	The site is zoned R2 Low Density Residential.	✓
2.3	Zone objectives and Land Use Table	<p>ZONE OBJECTIVES:</p> <p>Clause 2.3 of the LEP does not require a development to be consistent with or achieve the objectives of a zone, but rather, only requires the consent authority to “have regard to” such objectives.</p> <p>The proposed modifications to the approved development will result in a development that achieves the objectives of the zone given that the proposed modifications are relatively minor in the overall context of the development.</p> <p>LAND USE TABLE:</p> <p>Development for the purpose of a “dwelling house” is permitted with consent in the zone. Development for the purpose of a “office premises” is permissible pursuant to Clause 2.5 as discussed below.</p>	✓
2.5	Additional permitted uses for particular land	The site is afforded with an additional permitted use for the purpose of a “business premises, office premises, restaurants or cafes and shops” in Schedule 28 of Schedule 1 of the LEP.	✓
2.6	Subdivision - consent requirements	No subdivision is proposed as part of this application.	N/A
2.7	Demolition requires development consent	The application proposes internal reconfiguration works, which is shown within the Architectural Plans. Refer to Section 6.1(iv) of this Statement for further discussion. No new demolition works are proposed from what has already been approved in DA-172/2017.	✓
PART 4 - PRINCIPAL DEVELOPMENT STANDARDS			
4.3	Height of Buildings	<p>STANDARD: 8.5 metres</p> <p>PROPOSED: NA, remain same as previous consent DA-172/2017</p>	✓
4.4 (2A)	Floor Space Ratio	<p>STANDARD: 0.5:1</p> <p>PROPOSED: 0.25:1</p>	✓
4.5	Calculation of floor space ratio and site area	The calculations of floor space ratio and site area in accordance with the control.	✓
4.6	Exceptions to development standards	The application does not seek consent for an exception to any development standard.	N/A

LEGEND:
 ✓ COMPLIES
 ✗ DOES NOT COMPLY
 S SATISFACTORY



CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023				
CL	REQUIREMENT		PROPOSED	✓/✗
PART 5 - MISCELLANEOUS PROVISIONS				
5.1	Relevant authority	acquisition	The site is not mapped as reserved for acquisition on the <i>Land Reserved for Acquisition Map</i> .	N/A
5.3	Development boundaries	near zone	The development is permissible with consent and does not rely on the provisions of this Clause.	N/A
5.4	Controls relating to miscellaneous uses	permissible	Not applicable as the development is not for any of the uses mentioned under this clause.	N/A
5.6	Architectural roof features		The DA does not seek consent for architectural roof features above the maximum building height.	N/A
5.7	Development Below High Water Mark	Mean	The site is not situated below the mean high-water mark.	N/A
5.10	Heritage Conservation Heritage Item:	✗	The site is not identified as a heritage item, however, is located within the vicinity (200m) of any heritage items and is not located within a Heritage Conservation Area. The landmark family estate at 116 Homer Street Earlwood is listed as 'Environmental Heritage' in LEP. Given the scope of works proposed, the development poses no heritage impact for those items. The site is not identified as an archaeological site. There are no known Aboriginal sites in or near the subject site and no Aboriginal places declared in or near the site.	✓
	Conservation Area:	✗		
	In vicinity of item or area:	✓		
	Archaeological Site:	✗		
	Aboriginal Heritage:	✗		
5.11	Bush fire hazard reduction		The subject site is not identified as a bushfire prone land.	N/A
5.21	Flood Planning		The subject site is not mapped as being in a <i>Flood Planning Area</i> or <i>Flood Prone Land</i> on the <i>Flood Planning Area Map</i> .	N/A
PART 6 - LOCAL PROVISIONS				
6.1	Acid sulfate soils		The site is mapped as being potentially affected by Class 5 Acid Sulfate Soils on the <i>Acid Sulfate Soils Map</i> . The development does not propose works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. Pursuant to Clause 6.1(6), separate development consent is not required under this clause to carry out works as the works involve the disturbance of less than 1 tonne of soil and the works are not likely to lower the watertable.	✓
6.2	Earthworks		No earthworks are proposed as part of this application.	✓
6.3	Stormwater Management and water sensitive urban design		The proposed stormwater works: (a) are designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and	✓

LEGEND:
 ✓ COMPLIES
 ✗ DOES NOT COMPLY
 S SATISFACTORY



CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023			
CL	REQUIREMENT	PROPOSED	✓/✗
		(b) do not require on-site stormwater retention; and (c) avoid significant adverse impacts of stormwater runoff on adjoining properties. The development retains the previous approved stormwater system DA-172/2017.	
6.9	Essential Services	The augmentation and provision of new and additional water, electricity, sewage and stormwater drainage utilities and infrastructure will not be necessary as a result of the proposed development. These services are already existing and available to the subject site.	✓
SCHEDULE 1 ADDITIONAL PERMITTED USES			
28	Use of land for commercial purposes in Zones R2, R3 and R4 in Area 2	This schedule is applicable to the land as it contains an existing building that was, at the time of its erection, designed, constructed and used for the purpose of a shop with a dwelling. The development will remain for the purpose of an “office premises” and dwelling and does not exceed 100m ² GFA.	✓

TABLE 3: CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023 COMPLIANCE TABLE

(ii) SECTION 4.15(1)(A)(II)

THE PROVISIONS OF ANY PUBLICLY EXHIBITED DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

At the time of preparing this Statement, there were no draft environmental planning instruments that applied to the land or development. Accordingly, the proposal is considered acceptable having regard to the provisions of the Draft EPI's under Section 4.15(1)(a)(ii) of the Act.

(iii) SECTION 4.15(1)(A)(III)

THE PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN

CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023

Canterbury-Bankstown Development Control Plan 2023 (the DCP) contains objectives and development controls for development within the Campbelltown Local Government Area. An assessment of the development against the applicable DCP provisions is provided below.

CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023			
REF	CONTROL	PROPOSED	✓/✗
CHAPTER 2 - SITE CONSIDERATIONS			
2.1-2.4	Chapter 2.1 - Site Analysis Chapter 2.2 - Flood Risk Management Chapter 2.3 - Tree Management Chapter 2.4 - Pipeline Corridors	The subject site integrates and acknowledges the principles of the subject site's constraints; however, deemed unnecessary considering the nature of works for: <ul style="list-style-type: none"> 🔗 Sites analyse plan 🔗 Flood risk management plan 🔗 Tree management plan 🔗 Pipeline corridors This Statement further assess these considerations and their application to the proposed development.	✓

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023			
REF	CONTROL	PROPOSED	✓/✗
CHAPTER 3 - GENERAL REQUIREMENTS			
CHAPTER 3.1 - DEVELOPMENT ENGINEERING STANDARDS			
2	Civil Engineering Requirements	Civil engineering specifications and structure will be conditioned in CC stages.	✓
3	Stormwater Drainage System	The stormwater plans accompanying the application indicate the stormwater works required as part of the proposed development. Refer to approved DA-172/2017 regarding stormwater drainage layout which is proposed to be amended by this application. Overall, the proposed development includes an appropriate stormwater system that will not create any adverse impacts to the existing stormwater system in the locality.	✓
4	On-site Detention Systems	The applications does not seek on-site detention system.	N/A
CHAPTER 3.2 - PARKING			
1-2	Various controls	The S4.55(1A) proposes alterations and increase of the “office premises” ancillary area, lunchroom & access W.C. The existing parking arrangement will remain as per previous consent DA-172/2017.	✓
CHAPTER 3.3 - WASTE MANAGEMENT			
4	Commercial Development	In accordance with Guide A - Single Dwellings, a Waste Management Plan accompanies this application detailing waste storage, separation, and disposal arrangements during and after construction. Similar waste management arrangements are proposed as DA/172/2017.	✓
CHAPTER 3.4 SUSTAINABLE DEVELOPMENT			
2	Water conservation	The section is not applicable as the increase is less than 50%.	N/A
3	Energy Minimisation	The section is not applicable as the increase is less than 50%.	N/A
CHAPTER 3.7 LANDSCAPE			
2	Landscaping Design	The surrounding landscaping associated with the development is proposed to be retained during construction. No further changes to landscaping layout of the site from DA/172-2017 is proposed. No trees, native vegetation or vegetation of significance is proposed to be removed. No earthworks are proposed as part of this application.	✓
3	Biodiversity	The proposed development will have minimal adverse impacts of biodiversity of the area.	✓
CHAPTER 4 - HERITAGE			
4.1-4.4	Various controls	The subject site is not located in a heritage site, not mapped as heritage item, not located in heritage conservation area. The landmark family estate at 116 Homer Street Earwood is	✓

LEGEND:
 ✓ COMPLIES
 ✗ DOES NOT COMPLY
 S SATISFACTORY



CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023			
REF	CONTROL	PROPOSED	✓/✗
		<p>listed as 'Environmental Heritage' in LEP. Given the scope of works proposed, the development poses no heritage impact for those items.</p> <p>The site is not identified as an archaeological site.</p> <p>There are no known Aboriginal sites in or near the subject site and no Aboriginal places declared in or near the site.</p>	
CHAPTER 10 - OTHER DEVELOPMENT			
CHAPTER 10.4 - NON-RESIDENTIAL LAND USES			
SECTION 5 - OTHER NON-RESIDENTIAL DEVELOPMENT			
BUILDING DESIGN			
5.1	<i>In determining development applications that relate to land within Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential, Council must take into consideration the following matters:</i>	<p>The subject site is zoned R2 Low Density Residential and the proposal is for a non-residential use not including health consulting rooms, neighbourhood shops and serviced apartments. The subject site adopts high quality urban design and architectural elements that enhance the overall building stock and function.</p> <ul style="list-style-type: none"> a) The development is compatible in height, bulk, scale, siting and desired future character and building stock of the neighbouring residential zone; b) The existing range of goods and any future supplementary materials, equipment or works will be appropriately screened from neighbouring residential sites; c) The proposed development will maintain substantially similar solar access as approved DA/172/2017; d) The proposed development will not result in any noise generating impacts given the nature of use; e) The existing conditions of approval DA/172/2017 will be maintained regarding hours of operation, traffic movement, parking, headlight glare, security lighting. The sites does not exhaust fumes, smoke, dust or odours creating nuisance to residents; f) The proposed development includes changes to some windows and openings however all will be screened by side boundary fencing given the structure is single storey in height. <p>Overall, the development remains substantially the same as approved DA/172/2017 posing no adverse impacts on neighbouring residential sites.</p>	✓
5.2	Building height plane	The application does not seek to modify the approved building height.	✓

TABLE 4 : CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023

(iia) SECTION 4.15(1)(A)(IIIA)

THE PROVISIONS OF ANY PLANNING AGREEMENT ENTERED INTO UNDER S7.4

There are no known Planning Agreements entered into under Section 7.4 and no draft Planning Agreements are proposed to be entered into under Section 7.4 for this proposed development.

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



(iv) SECTION 4.15(1)(A)(IV)

THE PROVISIONS OF THE REGULATIONS

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION, 2021

Pursuant to Section 4.15(1)(A)(iv) of the Act, the following additional matters are required to be taken into consideration (where relevant) for a DA:

CL	MATTER FOR CONSIDERATION	✓/✗
61(1)	<i>In the case of a DA for the demolition of a building, the provisions of AS 2601</i>	✗
61(2)	<i>Any subdivision order made under Schedule 7 to the Act</i>	✗
61(3)	<i>The Dark Sky Planning Guideline</i>	✗
61(4)	<i>Low Rise Housing Diversity Design Guide for DA for manor house or multi dwelling housing (terraces)</i>	✗
62	<i>Fire safety and other considerations</i>	✗
63	<i>Fire safety and other considerations applying to erection of temporary structures</i>	✗
64	<i>Consent authority may require buildings to be upgraded</i>	✗

TABLE 13: MATTERS FOR CONSIDERATION UNDER THE EP&A REGULATION, 2021

5.2 SECTION 4.15(1)(B) OF THE EP&A ACT, 1979

THE LIKELY IMPACTS OF THE DEVELOPMENT

INCLUDING ENVIRONMENTAL IMPACTS ON BOTH THE NATURAL AND BUILT ENVIRONMENTS, AND SOCIAL AND ECONOMIC IMPACTS IN THE LOCALITY.

The application seeks consent for the modification of development consent DA-172/2017 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 to reconfigure the approved office premises addition, internal reconfiguration, and relocation of porch at 106 Homer Street, Earlwood.

An assessment of the proposal against the provisions prescribed in the relevant and applicable State Environmental Planning Policies, *Canterbury-Bankstown Local Environmental Plan 2023* and *Canterbury-Bankstown Development Control Plan 2023* has been provided throughout this Statement detailing the proposal's likely environmental impacts on both the natural and built environments, and social and economic impacts in the locality. A further and summarised assessment of any additional impacts or potential non-compliance of these matters is provided as follows:

5.2.1 SITING, DESIGN AND THE BUILT FORM

The proposed development's compliance with the relevant applicable development controls indicates that the proposed development is appropriately sited, observes a high standard of design and proposes a built form that will be compatible and substantially the same with the previous consent DA-172/2017 and local area/desired future character. The development has been designed to integrate and be consistent with the character of development envisaged in the local area.

The proposed modifications provide functional support internal layout. The proposed modifications are compliant with council controls, the schedules and finishes and design to remain substantially the same as previous consent DA-172/2017.

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



Therefore, it is not envisaged that the built form of the proposal will create adverse impacts to the existing built forms located on site, subject to a future application. The overall built forms are consistent with the building envelope controls for development on the site and their objectives in the *Canterbury-Bankstown Local Environmental Plan 2023* and the *Canterbury-Bankstown Development Control Plan 2023*.

5.2.2 PRIVACY

The development will have no impact on the existing privacy of neighbouring sites and to remain substantially the same as previous consent DA-172/2017.

5.2.3 SOLAR ACCESS AND OVERSHADOWING

The proposed development is not anticipated to impact on adjoining solar access and overshadowing and to remain substantially the same as previous consent DA-172/2017.

5.2.4 TREE REMOVAL, LANDSCAPING, FLORA & FAUNA

No tree removal is being proposed as part of the application and no adverse impacts are envisaged to the existing flora and fauna.

5.2.5 TRAFFIC & PARKING

The development does not seek car parking modification and will remain substantially the same as previous consent DA-172/2017.

5.2.6 UTILITIES/INFRASTRUCTURE

The augmentation and provision of new and additional utilities and infrastructure will not be necessary for the existing dwelling house as a result of the proposal and any such requirements will be borne by the person acting on any consent granted.

5.2.7 NATIONAL CONSTRUCTION CODE/BUILDING CODE OF AUSTRALIA

The design of the development has had regard to achieving compliance with the National Construction Code (NCC)/Building Code of Australia (BCA). Compliance with the NCC/BCA will be addressed in detail at the Construction Certificate stage. If necessary, conditions may be imposed by Council in relation to the development complying with the provisions of the NCC/BCA.

5.2.8 HERITAGE IMPACTS

An assessment of the proposal's potential heritage impacts has been provided within Section 6 of this Statement where it has been determined that the site is not identified as a heritage item, however, is located within the vicinity (200m) of any heritage items and is not located within a Heritage Conservation Area. The landmark family estate at 116 Homer Street Earwood is listed as 'Environmental Heritage' in LEP. Given the scope of works proposed, the development poses no heritage impact for those items. The site is not identified as an archaeological site. There are no known Aboriginal sites in or near the subject site and no Aboriginal places declared in or near the site. Given that the subject site is not a heritage item or located within a heritage conservation area as prescribed under the *Canterbury-Bankstown Local Environmental Plan 2023* the modification is deemed appropriate.



5.2.9 SOCIAL IMPACTS

The proposed development is considered to provide a positive social impact for the local and wider community. The following discussion provides an assessment of the potential social impacts the proposed development is anticipated to have on the local community:

COMMUNITY STRUCTURE:	The development will provide a positive benefit for the local community by providing amenity and infrastructure for the landowners for land within the low-density residential zone LGA.
INFRASTRUCTURE:	The development will not pose any significant impacts or strain on the capacity of existing infrastructure.
RESIDENTIAL AMENITY:	The proposed development does not pose any acoustic and visual privacy impacts on adjoining properties.
SAFETY AND SECURITY:	The built form of the development has been designed having regard to the Crime Prevention Through Environmental Design principles.

5.2.10 ECONOMIC IMPACTS

The proposal is not anticipated to create any adverse economic impacts.

5.2.11 STORMWATER MANAGEMENT

Overall, the proposed development maintains an appropriate stormwater system that will not create any adverse impacts to the existing stormwater system in the locality.

5.2.12 SOIL MANAGEMENT

Having regard to the scope of works proposed and for which consent is sought, the proposed development is not anticipated to have any adverse impacts regarding soil erosion or sedimentation.

5.2.13 CONTAMINATION

The history of the land use of the site has been considered as containing potential contamination. The site is not identified as being contaminated and there is no evidence to suggest that the site has previously been used for a potentially contaminating activity.

5.2.14 WASTE MINIMISATION/MANAGEMENT

The Waste Management Plan accompanying the application details the waste minimisation and avoidance measures that will be implemented during the construction and ongoing operation of the proposed development. The waste and recycling bins for the dwelling house will be maintained as existing.

5.2.15 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN - CPTED

The existing development will not contribute to the provision of any increased opportunity for criminal or anti-social behaviour to occur.



5.2.16 CONSTRUCTION IMPACTS

Whilst there is expected to be some impacts during construction of the proposed development, the impacts are not anticipated to be excessive and can be suitably controlled by the imposition of conditions on any consent granted for the proposal.

5.2.17 ESD & THE CUMULATIVE IMPACT

The proposal is not expected to have any cumulative impacts and is not considered to inhibit the ability of future generations to further use or develop the subject site.

5.3 SECTION 4.15(1)(C) OF THE EP&A ACT, 1979

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT.

The subject application seeks consent for modification of development consent DA-172/2017 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 to reconfigure the approved office premises addition, internal reconfiguration, and relocation of porch on the subject property at 106 Homer Street, Earlwood.

The proposed development is defined as “*dwelling house*” and “*office premises*” that involves modifications to the “*office premises*” which is permissible on the land pursuant to the additional permitted uses for the land under *Canterbury-Bankstown Local Environmental Plan 2023*. The proposal achieves the objectives of the zone as it maintains a land use is compatible with the character of the area and low-density scale as previous approval.

The site is not impacted by any easements or other site constraints that would restrict the proposed development or otherwise render the site unsuitable for the proposed development.

The assessment of the proposal contained within this Statement outlines how the proposal achieves a high level of compliance with the provisions of *Canterbury-Bankstown Local Environmental Plan 2023* and *Canterbury-Bankstown Development Control Plan 2023* and ensures that the proposed development will not create adverse impacts and will integrate with the character of existing developments in the streetscape.

It is evident from the above and the assessment provided within this Statement that the site is suitable for the proposed development.

5.4 SECTION 4.15(1)(D) OF THE EP&A ACT, 1979

ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS.

The consideration of submissions cannot be made at the time of preparing this Statement.

5.5 SECTION 4.15(1)(E) OF THE EP&A ACT, 1979

THE PUBLIC INTEREST.

The proposed development is defined as “*dwelling house*” and “*office premises*” that involves modifications to the “*office premises*” which is permissible on the land pursuant to the additional permitted uses for the land under *Canterbury-Bankstown Local Environmental Plan 2023*. The proposal achieves the objectives of the zone as it maintains a land use is compatible with the character of the area and low-density scale as previous approval.



The development will allow for the orderly and economic use and development of the land and is acceptable having regard to the applicable State and Council planning controls. The proposed development satisfies the client's requirements, is acceptable having regard to the applicable State and Council planning controls and will not result in any unacceptable impacts on the locality.

The assessment of the proposal contained within this Statement outlines how the proposal complies with Council's requirements for the siting, location and design of the proposed development and the subject site is considered to be suitable for the proposed development.

When completed, the proposed development will have minimal impact on the locality and amenity of surrounding residents and will complement the character of existing developments in the streetscape and will provide a need for the local and wider community.

In view of the above and having regard to the assessment of the development contained within this Statement, the development is considered to be in the public interest.

6 SECTION 4.46 EVALUATION EP&A ACT, 1979

Section 4.46 of the Act details requirements for development that requires a separate approval under other environmental planning instrument or related legislation known as "*integrated development*". An assessment as to whether any of the triggers for integrated development are met is provided below:

EPI OR ACT	✓/✗	EPI OR ACT	✓/✗
<i>Fisheries Management Act 1994</i>	✗	<i>Protection of the Environment Operations Act 1997</i>	✗
<i>Heritage Act 1977</i>	✗	<i>Roads Act 1993</i>	✗
<i>Mines Subsidence Compensation Act 1961</i>	✗	<i>Roads Act 1993</i>	✗
<i>Mining Act 1992</i>	✗	<i>Water Management Act 1912</i>	✗
<i>National Parks & Wildlife Act 1974</i>	✗	<i>Water Management Act 2000</i>	✗
<i>Petroleum (Onshore Act) 1991</i>	✗		

TABLE 14 : INTEGRATED DEVELOPMENT TRIGGERS

7 CONCLUSION

The application seeks consent for the modification of development consent DA-172/2017 under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 to reconfigure the approved office premises addition, internal reconfiguration, and relocation of porch at 106 Homer Street, Earlwood.

The development has been assessed pursuant to the matters for consideration prescribed in Sections 1.7, 4.15, 4.46 and 4.55 of the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2021*. The proposed development is not Designated Development or Integrated Development and so the application can be dealt with in the usual manner.

This Statement provides an assessment of the proposed development against the relevant planning instruments including:

- 📌 State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- 📌 State Environmental Planning Policy (Resilience and Hazards) 2021;

LEGEND:

- ✓ COMPLIES
- ✗ DOES NOT COMPLY
- S SATISFACTORY



- 📍 State Environmental Planning Policy (Transport and Infrastructure) 2021;
- 📍 Canterbury-Bankstown Local Environmental Plan 2023; and
- 📍 Canterbury-Bankstown Development Control Plan 2023.

The assessment of the proposal contained within this Statement outlines how the proposal complies with Council's requirements for the proposed development, in particular in relation to the requirements prescribed in the applicable State Environmental Planning Policies, *Canterbury-Bankstown Local Environmental Plan 2023* and *Canterbury-Bankstown Development Control Plan 2023*.

The proposed development is defined as “dwelling house” and “office premises” that involves modifications to the “office premises” which is permissible on the land pursuant to the additional permitted uses for the land under *Canterbury-Bankstown Local Environmental Plan 2023*. The proposal achieves the objectives of the zone as it maintains a land use is compatible with the character of the area and low-density scale as previous approval. The proposed development will have minimal impact on the locality and amenity of surrounding residents and will integrate within the character of existing developments in the local streetscape.

This Statement further demonstrates that under the provisions of Section 4.55(1A) of the Act, the modifications sought in this application will result in substantially (“essentially or materially having the same essence”: *Vacik Pty Ltd v Penrith City Council* (Land and Environment Court, Stein J, 24 February 1992); *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 43 NSWLR 468) the same development as development for which consent under DA-172/2017 was originally granted.

The modifications proposed in this application do not radically transform the originally approved development (*Tipalea Watson Pty Ltd v Ku-ring-gai Council* (2003) 129 LGERA 351) with the development remaining substantially sited and orientated as approved; substantially maintaining the approved building envelope; with the proposed modifications not generating any substantively greater impacts from the approved development on both a quantitative and qualitative basis (*Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298).

This Statement demonstrates that the development will allow for the orderly and economic use and development of the land; that the subject site is suitable for the proposed development; and that the proposed development will be in the local and wider public interest.

In view of the above and having regard to the assessment provided throughout this Statement, the development is considered worthy of Council's approval.