

7 September 2023

Chief Executive Officer
City of Canterbury Bankstown
PO Box 8
Bankstown NSW 1885

**Re: Section 8.3 Review
DA/598/2023
19 Park Street, Campsie**

PPD Planning Consultants act for the applicant in relation to a Development Application (DA) for "*Demolition of existing on site structures and construction of a two storey attached dual occupancy, each with double garage, and Torrens title subdivision*" (DA/598/2023) at 19 Park Street, Campsie.

Pursuant to s8.3 of the *Environmental Planning and Assessment Act 1979* (the **Act**) a request is made for Council to review the determination to refuse DA/598/2023. This request is made within the relevant timeframes prescribed in s8.10 of the Act.

As a general note on the background to DA/598/2023, since submission of the DA through the NSW Government Planning Portal there has been a series of on-going discussions between Council's planning officers and the applicant in relation to changes to the proposed development and the provision of additional information. Notwithstanding the efforts of both parties, the matters of concern identified by Council's Development Assessment Officer would appear to have not been adequately addressed and subsequently a *Notice of Determination of DA-598/2023* refusing development consent was issued on 13 July 2023 along with a schedule of reasons for refusal.

Pursuant to cl.8.3(3) of the Act, further changes have been made to the proposed development the subject of the original application for development consent and the Council is requested to review this matter having regard to the accompanying amended development that includes:

1. Amended Architectural Plans
2. Amended Landscape Plans
3. Civil Design Plans and Certificate
4. Flood Risk Management Plan
5. OSD Checklist

The amended development is considered to be substantially the same development having due consideration to a qualitative and quantitative analysis between the development as originally refused and the modified development accompanying this request for a review. The proposed changes do not radically transform the development as originally refused and will not change the most important/essential parts of the proposed development.

The following provides a copy of Council's reasons for refusal (shown in bold and italics) and 'comments in response' detailing how the amended application addresses the reasons for refusal of the development application.

1. ***The proposed development fails to comply with the maximum Floor Space Ratio development standard contained within Clause 4.4 of Canterbury Local Environmental Plan 2012 (Pursuant to S4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979).***

Comments in response

The amended architectural plans detail changes to the height, bulk and scale of the development so the floor space ratio is now 0.494:1 and does not exceed the maximum 0.5:1 floor space ratio shown for the land on the Floor Space Ratio Map.

2. ***Insufficient information was submitted to undertake a detailed and through assessment of the application against the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 [Pursuant to S4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979]***

Comments in response

Architectural Plans have been amended to include BASIX commitment notes and:

- The floor area in the BASIX matches that shown on the architectural plans.
- The landscape area on the architectural plans matches that included in the BASIX Certificate.
- Rainwater tank details are shown on the amended architectural plans.
- Hot water system details are shown on the amended architectural plans as noted in the BASIX Certificate.
- Air conditioning system detail is shown on the amended architectural plans as required in the BASIX Certificate.

3. ***The proposal fails to comply with the minimum lot size and frontage control contained within Control C2.2.1 of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979].***

Comments in response

Development is a corner lot and has a 43.585 frontage to Evaline Street and a 14.095m frontage to Park Street and does not comply with the minimum 15m width required by the DCP controls for short boundaries on corner lots. It is noted:

- the non-compliance with the minimum width DCP control is very minimal (ie - 6.03%) and
- this minimal non-compliance should be looked at in the context of the DCP contemplating the required 15m wide frontage being available to accommodate 2 front facing dwellings (ie each dwelling having a minimum required 7.5m frontage). The development does not propose 2 front facing dwellings.

Notwithstanding this non-compliance with street frontage width, the site is capable of accommodating a form of redevelopment envisaged by the LEP (ie. Multi dwelling housing) because:

1. The development has been designed so each dwelling has a significant street frontage ie No. 19 has a frontage of 14.095m to Park Street and No. 19a has frontage of 21.792m to Evaline Street.
2. The land has a size and shape to accommodate development:
 - with complying street setbacks that provide adequate amenity for occupants of the site and surrounds; and
 - with areas of private open space that are functional and tailored to the townhouse type of development being proposed.
3. The land has sufficient dimensions to adequately accommodate development that only covers 40% of the site and has a minimum 44% of the site landscaped so that it provides a pleasant outlook and contributes to the amenity of the property.
4. There is adequate area for vehicle access and garaging for 2 vehicles per dwelling.
5. the development makes a valuable contribution to the variety of housing types within a higher density residential environment.

In accordance with the provisions of s4.15(3A)(b) of the Act the amended proposal provides a reasonable alternative solution that achieves the objects of the 'lot size and frontage' controls standards in the DCP.

4. The proposal fails to comply with the isolated site controls contained within Control C2.2.2 – Isolated Sites of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979].

Comments in response

Due consideration has been given to the following key opening DCP statement in relation to 'isolated sites':

"Isolation of sites occurs where a property that adjoins a development site would be narrower or smaller than required to be developed under Canterbury LEP. Consequently the isolated site would be incapable of accommodating the form of redevelopment envisaged by the LEP."

It has been noted by Council *"the adjoining property to the south, although it presents as a residential flat building, is not Strata Titled. Therefore, at this stage, it is considered that there is potential for the site to be amalgamated with the adjoining property/properties to facilitate a coordinated development"*.

The subject site is in an area that envisages higher density forms of residential development up to 3 storeys (max. 11.5m) in height. It is acknowledged by Council that this maximum height limit is not a given 'right' and may sometimes not be achievable or appropriate given the character of the locality, environmental impacts etc.

The adjoining property to the south at 21 Park Street has a land size of approximately 15.24m (50') street frontage and depth of 43.585m with an area of some 664m². The site has been developed for 2 storey residential flat building in character with existing development in the locality.

This site remains suitable for redevelopment of higher residential development envisaged by the LEP such as 2 storey residential flat building and multi dwelling housing notwithstanding the proposed development of 19 Park Street.

5. The proposal fails to comply with the minimum 4m dimension requirement for private open space associated with Dwelling 19 as outlined within Control C2.2.3 – Private Open Space of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979].

Comments in response

The amended plans detail the private open space associated with Dwelling 19 being relocated to the side boundary and having a minimum dimension in any direction of 3.5m.

In accordance with the provisions of s4.15(3A)(b) of the Act the amended proposal provides a reasonable alternative solution for minimum dimension of private open space that achieves the objects of the 'Private Open Space' control standards in the DCP because:

- All residents will have access to an area of private open space and having due consideration to the form and nature of the proposed development, the minimum dimension of 3.5m will ensure the area remains functional.
- The private open space is tailored to the dwellings and opportunities for active and passive recreation are provided for within the development.
- The private open space is designed to take advantage of solar access and prevailing breezes.
- The private open space minimum dimension of 3.5m is sufficient to promote the enjoyment of outdoor living.
- The private open space is located so that there is passive surveillance from main living area of the dwellings within the development.
- Amended landscape plans detail how the new development is appropriately landscaped to provide a pleasant outlook and contribute to the amenity of the property have due consideration to existing landscaping in the locality.

6. The proposal fails to comply with the maximum floor space ratio control contained within Control C2.3.1 of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979]

Comments in response

The amended development, as detailed in the amended architectural plans, proposes changes to the height, bulk and scale of the development so the floor space ratio is now 0.494:1 and does not exceed the maximum 0.5:1 floor space ratio shown for the land on the Floor Space Ratio Map.

7. ***The proposal fails to comply with the minimum 3.5m corner side setback control contained within Control C2.3.3 of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979].***

Comments in response

The amended architectural plans detail how the proposal has been modified to comply with the minimum 3.5m corner side setback control contained within Control C2.3.3 of Canterbury Development Control Plan 2012.

8. ***Insufficient information was submitted to undertake a detailed and thorough assessment of the application against the applicable controls contained within Part B2 – Landscaping of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979].***

Comments in response

Amended Landscaping Plan is submitted providing sufficient information to undertake a detailed and thorough assessment of the application against the applicable controls contained within Part B2 – Landscaping of Canterbury DCP 2012.

9. ***Insufficient information was submitted to undertake a detailed and thorough assessment of the application against the applicable controls contained within Control B7.2.1 – CPTED Principle: Surveillance C5 and Control B7.2.2 – CPTED Principle: Access C4 of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979].***

Comments in response

In relation to Control B7.2.1 – CPTED Principle: Surveillance C5 of Canterbury Development Control Plan 2012 the landscaped plan has been amended to address the applicable C5 controls. In particular, the amended landscaping plan has been designed as much as practicable to avoid obstructing natural surveillance by:

- Avoiding medium height vegetation and using low hedges and shrubs (1 - 1.2m high) creepers, ground covers or high-canopied trees are good for natural surveillance;
- Spacing trees that have dense low growth foliage or have the crown raised to avoid a continuous barrier;
- Minimising possible places for intruders to hide;
- Avoiding vegetation that conceals the building entrance from the street; and
- Providing planting that is lower than 1m or thin trunked with high canopy adjacent pedestrian pathway.

In relation to Control B7.2.1 – CPTED Principle: Access C4 of Canterbury Development Control Plan 2012 the landscape plan has been amended to address the applicable C4 controls. In particular, the amended landscaping plan has been designed as much as practicable to address access control by:

- Using hedging plants with dense foliage such as 'backyard bliss' that provide good privacy as well as effective barriers to deter unauthorised access; and

- Trees are planted sufficient distance from buildings to avoid providing a means of access to second storey windows or balconies.

10. *Insufficient information was submitted to undertake a detailed and thorough assessment of the application against the Solar Access and Overshadowing Controls contained within Control C2.5.1 of Canterbury Development Control Plan 2012 [Pursuant to S4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979].*

Comments in response

Amended architectural plans include additional shadow plans to support a detailed and thorough assessment of the application against the Solar Access and Overshadowing Controls contained within Control C2.5.1 of Canterbury Development Control Plan 2012. The plans include:

- shadows created by the proposed development for every hour from 8am to 4pm on 21 June; and
- shadows created by the proposed development on the north-western elevation of the adjoining property at 21 Park Street for every hour from 8am to 4pm on 21 June.

11. *For the reasons stated above, the proposal is likely to result in adverse environmental impacts on the built environment [Pursuant to S4.15(1)(b) of the Environmental Planning & Assessment Act 1979].*

Comments in response

Having due regard to the amendments proposed and additional information provided, the proposal will no longer result in adverse environmental impacts on the built environment.

12. *For the reasons stated above, it is considered that the site is not suitable for the proposed development [Pursuant to S4.15(1)(c) of the Environmental Planning & Assessment Act 1979].*

Comments in response

Having due regard to the amendments proposed and additional information provided, the site is considered to be suitable for the proposed amended development.

13. *For the reasons stated above, it is considered that the development is not in the public interest [Pursuant to S4.15(1)(e) of the Environmental Planning & Assessment Act 1979].*

Comments in response

Having due regard to the amendments proposed and additional information provided, the site is considered to be in the public interest.

When considering the broad scope of 'public interest' in the case of this application, due consideration is given to the following:

- Acceptance of development by the community i.e. whether any objections to the development are considered relevant and, if so, have they been adequately addressed; and

- Compliance with the relevant objectives of the zone by providing for a variety of housing types in a higher density residential environment.

In summary,

1. The development has been modified so it no longer seeks a 'significant variation' to key built form controls such as setbacks and FSR.
2. Additional information has been provided to enable a more detailed and thorough assessment of the application against the relevant controls contained within Canterbury Development Control Plan 2012.

It is requested that Council change the decision to refuse development consent for *"Demolition of existing on site structures and construction of a two storey attached dual occupancy, each with double garage, and Torrens title subdivision"* (DA/598/2023) at 19 Park Street, Campsie.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tony Polvere', with a stylized flourish at the end.

Tony Polvere
Director