



S4.55 MODIFICATION TO REDUCE NUMBER OF CAR PARKING SPACES



1546 Canterbury Road, Punchbowl

SOEE PREPARED BY **TRANPLAN CONSULTING**
 PHRONIC
 CLIENT FURNITURE (C/O RAINA ALI)

REPORT VERSION	DATE	STATUS (FINAL/DRAFT)
A	Nov 2024	FINAL

This Statement of Environmental Effects has been prepared by TRANPLAN Consulting pursuant to Sections 4.12 and 4.55 of the *Environmental Planning and Assessment Act 1979* and Part 3, Division 1 of the *Environmental Planning and Assessment Regulation 2021*.

Prepared by:



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Common Abbreviation	Abbreviation Term
ADG	Apartment Design Guide
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AS	Australian Standard
ASS	Acid Sulfate Soils
BCA	Building Code of Australia
CC	Construction Certificate
CIV	Capital Investment Value
CMP	Construction Management Plan/Conservation Management Plan
Council	the relevant Council
CPTED	Crime Prevention Through Environmental Design
DA	Development Application
DCP	Development Control Plan
DP	Deposited Plan
DSZ	Deep Soil Zone
DPIE / the Department	NSW Department of Planning and Environment
EIS	Environmental Impact Statement
EPA Act (the Act)	Environmental Planning and Assessment Act 1979
EPA Reg (the Regulation)	Environmental Planning and Assessment Regulation 2021
FFL	Finished Floor Level
FSR	Floor Space Ratio
GFA	Gross Floor Area
HCA	Heritage Conservation Area
LEC	Land and Environment Court
LEP	Local Environmental Plan
LGA	Local Government Area
MHWM	Mean High Water Mark
NCC	National Construction Code
NGL	Natural Ground Level
NSW	New South Wales
OC	Occupation Certificate
OSD	On-Site Detention
PCA	Principal Certifying Authority
PoM	Plan of Management
POS	Private Open Space
PP	Planning Proposal
REF	Review of Environmental Factors
RFB	Residential Flat Building
RL	Reduced Level
RMS	Roads and Maritime Services
SoEE / Statement	Statement of Environmental Effects
SoHI / (also known as HIS)	Statement of Heritage Impact (Heritage Impact Statement)
SEPP	State Environmental Planning Policy
SREP	Sydney Regional Environmental Plan
SP	Strata Plan
SWMP	Stormwater Management Plan
TfNSW	Transport for New South Wales
TPZ	Tree Protection Zone
VENM	Virgin Excavated Natural Material
WMP	Waste Management Plan
WSUD	Water Sensitive Urban Design

1 PURPOSE OF THIS REPORT

This Statement of Environmental Effects (SoEE / Statement) report has been prepared pursuant to Sections 4.12 and 4.55 of the *Environmental Planning and Assessment Act 1979* and Part 3, Division 1 of the *Environmental Planning and Assessment Regulation 2021* for the purposes of:

- demonstrating that the environmental impacts of the development have been considered; and
- outlining steps to be undertaken to protect the environment or to lessen any expected harm to the environment.

This SoEE details the necessary information for The S4.55 proposal to be assessed by the consent authority, including a description of the site and its surrounds and an assessment of the proposal against the relevant planning controls.

The SoEE finds that the proposed development is acceptable in that it is consistent with the relevant planning controls and will have minimal environmental impacts that can be satisfactorily managed.

2 THE SITE

The subject development site has collective legal description of Lots 42/43/44 in DP 12280 and Lots 327 & 328 in DP 13801 (see Figure 1), and is more commonly referred to as 1546 Canterbury Road, Punchbowl.



Figure 1 – No. 1546 Canterbury Road, Punchbowl with Lots/DPs overlay Source: NSW Government

The site is generally regular in shape with an area of approximately 2725m², and is located on the southern side of Canterbury Road at the corner with Bramhall Avenue. Refer to Figures 2 & 3 below for Aerial images of the site. The ground floor of the building fronting Canterbury Road is currently occupied and used as a furniture shop (*Phronic Furniture*).

The immediate vicinity of the site is characterised by a mixed of light industrial / business park developments along Canterbury Road as well as low density residential developments. The site is not listed as a heritage item and is not located within a conservation area.

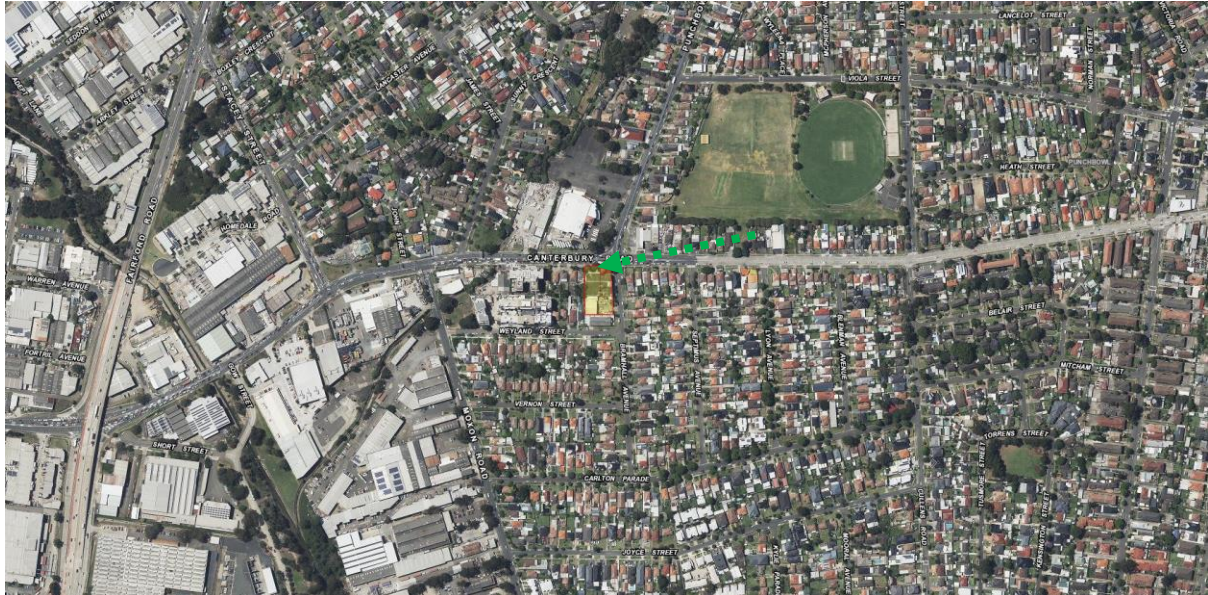


Figure 2 – Site & Locality Source: NSW Government



Figure 3 – Aerial View Source: NSW Government



Figure 4 – View of subject building from Canterbury Road c.2023 (note the ample parking available) *Source: Google*



Figure 5 – View of existing building from Bramhall Avenue (note the ample parking available) *Source: Google*

2.1 RELEVANT DEVELOPMENT HISTORY

On 24/12/1992, DA6317/92 was approved by Council to *alter and renovate the existing showroom warehouse as a bulky household goods, electrical appliance and lighting showroom*.

Note: A total of 33 parking spaces was approved, including 11 parking spaces within the front car park (Canterbury Road) area – see Figure 6 below.

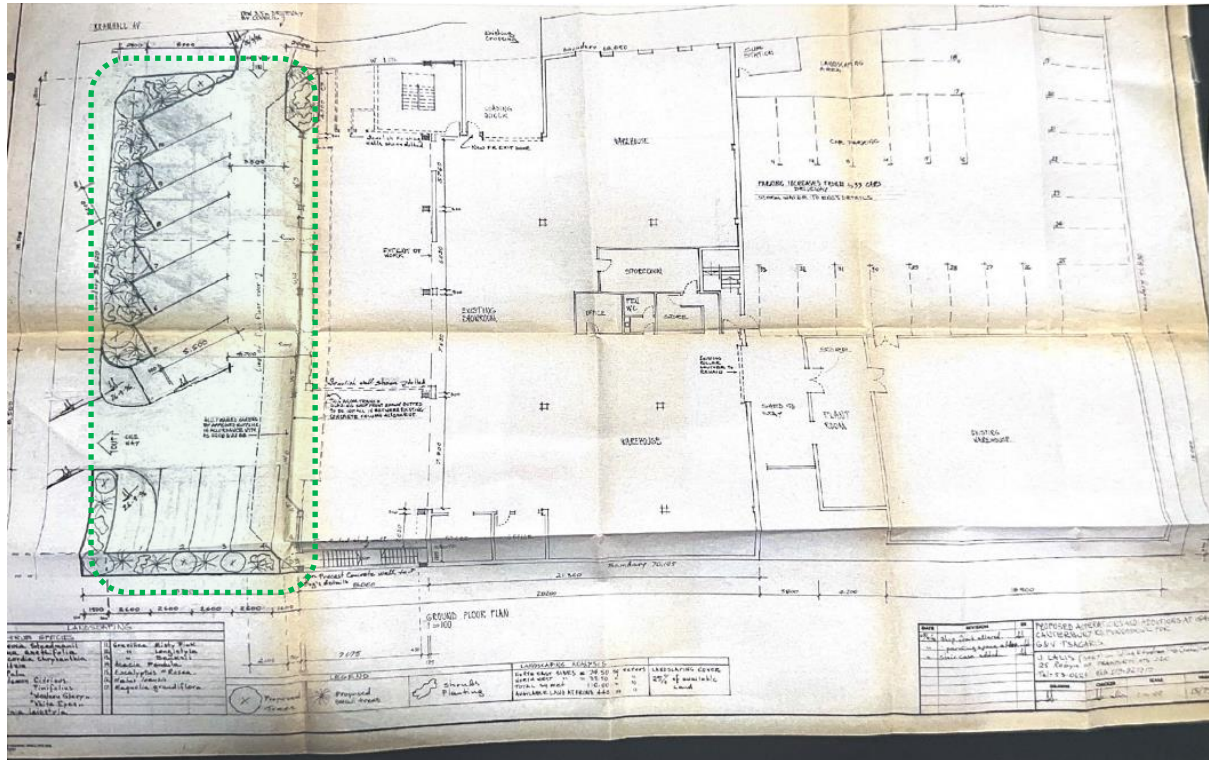


Figure 6 – DA6317/92 Site Plan with parking spaces Source: Council

On 23/12/1996, M6317/96 was approved by Council for *changes to car spaces and floor space of showroom*.

Note: One (1) parking space within the front car park (Canterbury Road) was deleted/reduced i.e. reduction from 11 spaces to 10 spaces – see Figure 7 below.

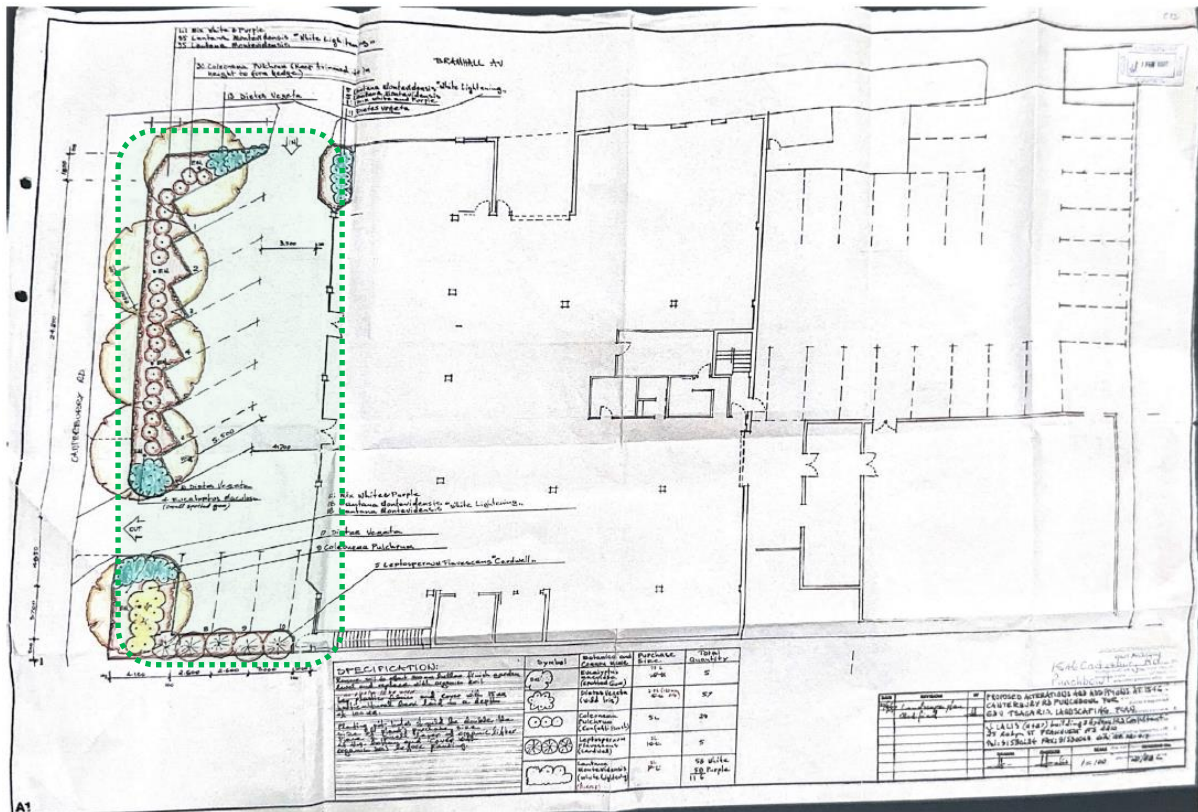


Figure 7 – M6317/96 Site Plan with 1 reduced parking space (front parking) *Source: Council*

On 11/07/200, DA 792/99 was approved by Council for minor alterations to existing building to be used for cold food storage and warehouse, and a reduction in the number of car parking spaces.

Note: Three (3) further spaces were deleted/reduced, to allow for truck manoeuvring area – see Figure 8 below.

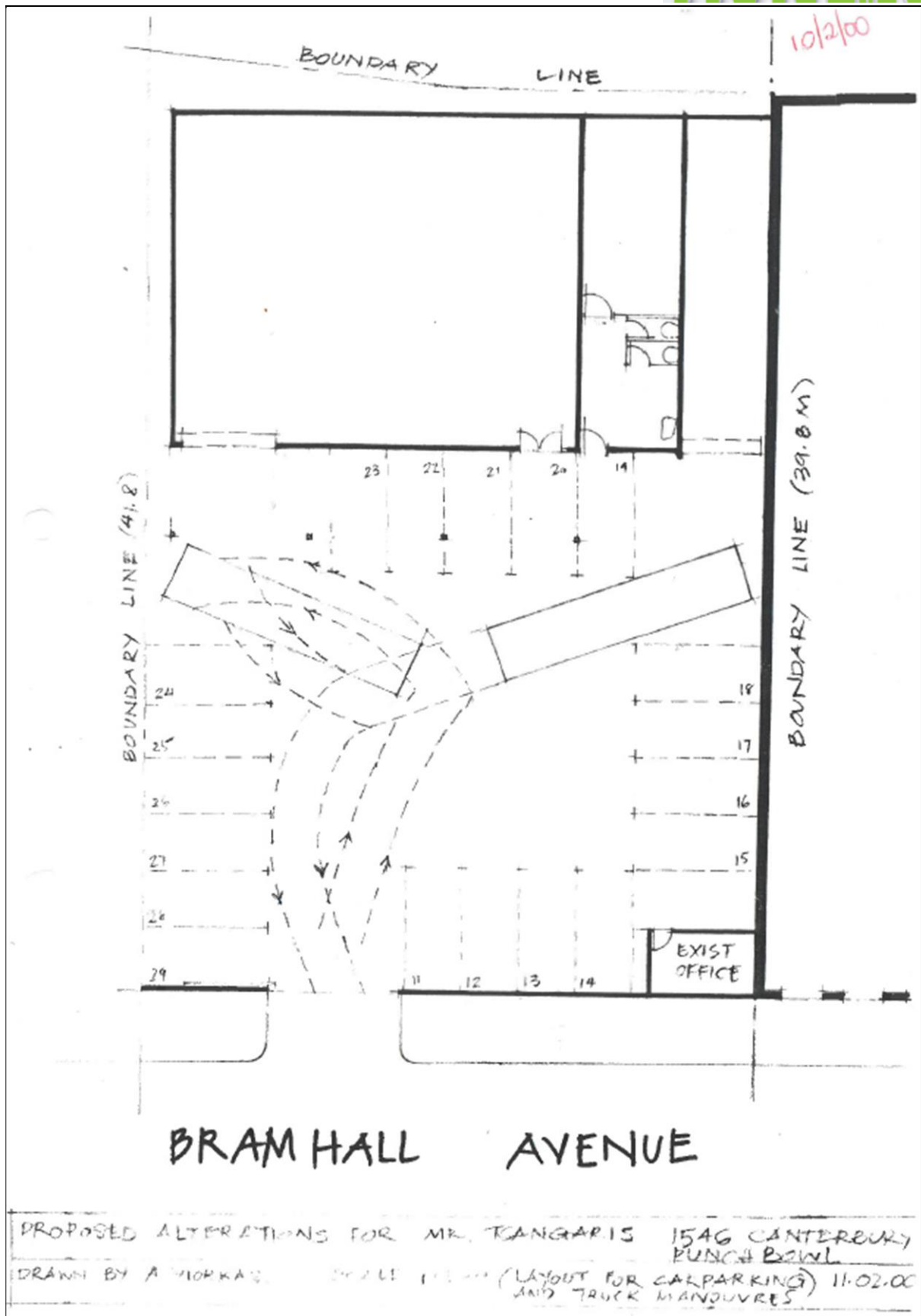


Figure 8 – DA792-99 Plan showing 3 reduced parking space (rear parking) Source: Council

3 THE PROPOSAL

This Section 4.55(2) modification application (MA) seeks Council consent for minor modifications to DA6317/92 to modify (reduce) the approved number of car parking spaces, to delete the 3 parking spaces within the front car park (Canterbury Road); see extract of mark-up Plan below in Figure 9.

It is critical to note that the proposed modifications involves no changes to the approved floor layout, no increase in GFA/FSR (i.e. no changes to building footprint), and no changes building envelope and/or building height.

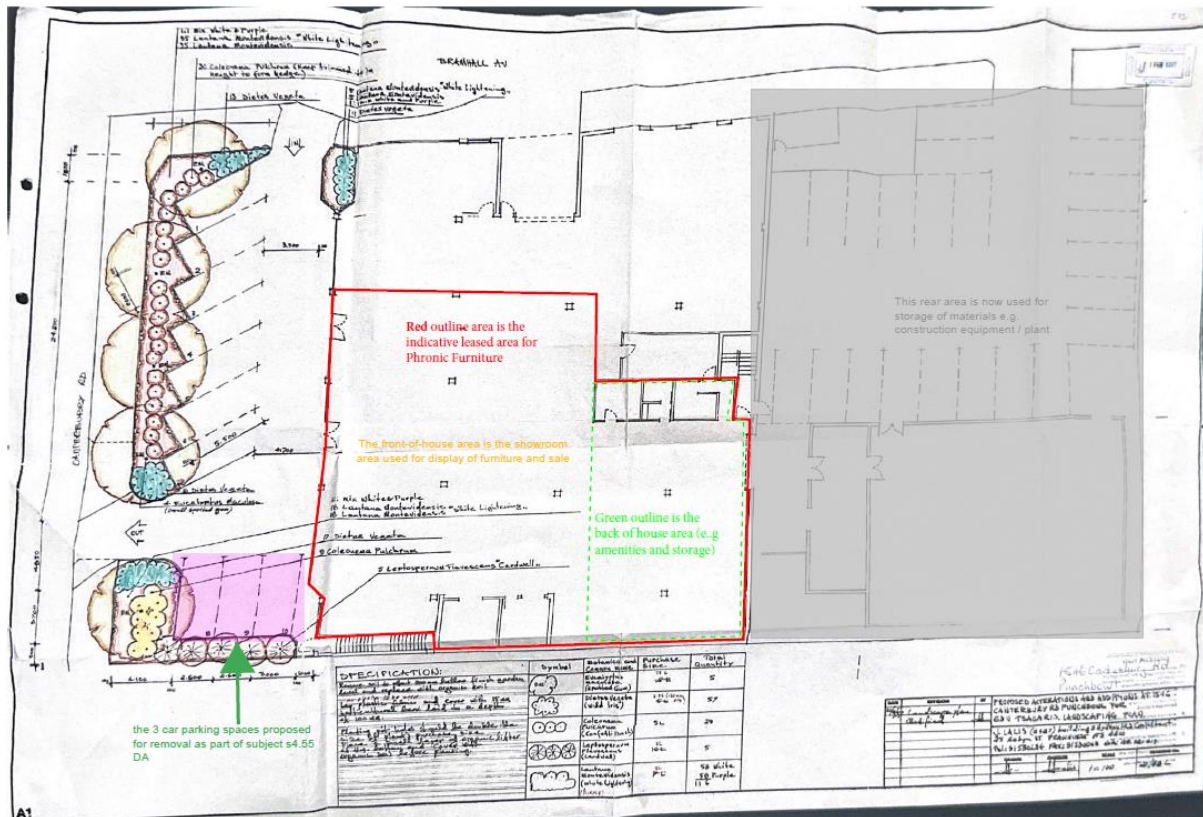


Figure 9 – 3 parking spaces (shaded purple and indicated by green arrow) to be deleted Source: Council

This SoEE should be read in conjunction with the Plans/Drawings submitted as part of the DA.



Figure 10 – View of the furniture shop's showroom area (front-of-house)



Figure 11 – View of front car park (note only 2 parking spaces are used, 1 of which belongs to this author)

3.1 SECTION 4.55(2) OF THE EP&A ACT, 1979

Pursuant to Section 4.55(2) of the *Environmental Planning & Assessment Act (EP&A Act) 1979*, this application propose to modify DA6317/92 (as relevant).

The details of the proposed modifications, and rationale & purpose have been previously discussed in Heading 3, and the assessment of impacts of this Section 4.55(2) modification DA is discussed in Heading 4.2 below. Under the provisions of Section 4.55(2) of the *Environmental Planning and Assessment Act, 1979* (as amended), the following provisions are applicable:

(2) Other modifications

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 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
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.

Council may only agree to a modification of an existing Development Consent if the following criteria have been complied with:

3.1.1 CONSULTATION WITH RELEVANT MINISTER, PUBLIC AUTHORITY OR APPROVAL BODY

Given the minor nature of the modification, it is considered that referral to relevant minister, public authority or approval body is not required.

3.1.2 SUBSTANTIALLY THE SAME DEVELOPMENT

In order to have the ability to modify a development consent under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, Council must be satisfied that the development as modified would be substantially the same as the development for which the development consent was originally granted.

The planning merits of the modification are not relevant to the determination of the threshold question of whether the development to which the consent as relates would be substantially the same development as the development for which consent was originally granted.

In this regard, Council must apply the "*substantially the same development test*" to any Section 4.55(2) Application lodged. Case law in ***Vacik Pty Ltd v Penrith City***

Council (Stein J, 10242 of 1991, 24 February 1916-22) stated this test in the following terms:

"... 'substantially' when used in the section means essentially or materially or having the same essence".

In relation to determining whether the proposed modified development is "essentially or materially" the same as the approved development. Justice Bignold in **Moto Projects No. 2 Pty Ltd v North Woollahra Council** (1999) 106 LGERA 298 at 309, states:

"The relevant satisfaction required by s 4.55(2)(a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.

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.

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 light of all the above, the Section 4.55(2) to modify DA6317/92 (as relevant), is "essentially or materially" the same as the development that was initially approved by Council.

In consideration of the above, it is concluded that The S4.55 proposal is substantially the same development that was approved by Council initially, and therefore satisfies the 'substantially the same development test' under Section 4.55(2) of the EP&A Act.

3.1.3 NOTIFICATION AND CONSIDERATION OF SUBMISSIONS

Notification may be carried out by Council in accordance with in accordance with the relevant Council *Plan/Policy*. Submissions (if any) can be considered during the assessment process.

The proposed modification is unlikely to have an adverse impact on the natural and/or built environment – this is discussed in Heading 5.2.

4 STATUTORY PLANNING FRAMEWORK

The *Environmental Planning & Assessment Act (EP&A Act) 1979* provides the broad regulatory framework for planning in NSW, including consideration of the following matters:

- Section 4.15 - Evaluation:
 - Section 4.15(1)(a)(i) – The provisions of any Environmental Planning Instrument;
 - Section 4.15(1)(a)(ii) – The provisions of any exhibited Draft Environmental Planning

- Instruments;
- Section 4.15(1)(a)(iii) – The provisions of any Development Control Plan;
- Section 4.15(1)(a)(iiia) – The provisions of any Planning Agreement entered into under s93F or proposed Planning Agreement;
- Section 4.15(1)(a)(iv) – The provisions of the Regulations;
- Section 4.15(1)(b) – The likely environmental impacts on both the natural and built environments, and social and economic impacts of the development;
- Section 4.15(1)(c) – The suitability of the site for the development;
- Section 4.15(1)(d) – Any submissions made in accordance with *the Act* or the regulations; and
- Section 4.15(1)(e) – The public interest.
- Section 4.46 – Integrated Development.

4.1 SECTION 4.46 OF *THE ACT*, 1979

Section 4.46 (formerly Section 91) of *the Act* details requirements for development known as “integrated development” which require a separate/additional approval from other government agencies and related legislation. The development is not “integrated development” as indicated by the table below:

Legislation	✓/✗	Legislation	✓/✗
<i>Coal Mine Subsidence Compensation Act 2017</i>	✗	<i>Petroleum (Onshore Act) 1991</i>	✗
<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>Mining Act 1992</i>	✗	<i>Rural Fires Act 1997</i>	✗
<i>National Parks & Wildlife Act 1974</i>	✗	<i>Water Management Act 2000</i>	✗

5 SECTION 4.15 OF *THE ACT*, 1979

The consent authority is required to take into consideration the matters listed under Section 4.15 of *the Act* when determining the development application including environmental planning instruments, social and economic impacts; site suitability, the built and natural environment and the public interest.

The S4.55 proposal has been evaluated and assessment throughout this Statement against the relevant heads of consideration contained in Section 4.15 of *the Act* and has been prepared to mitigate environmental impacts of the development.

The S4.55 proposal is consistent with the objects of *the Act* as it is considered to promote the orderly and economic use and development of land without resulting in an adverse impact on the environment.

An evaluation of the S4.55 proposal against the provisions of Section 4.15(1) of *the Act* is provided below:

5.1 ENVIRONMENTAL PLANNING INSTRUMENTS

Section 4.15(1)(a)(i) of the Act requires consideration of any Environmental Planning Instruments (EPI). The following EPI are applicable to the proposed development:

- State Environmental Planning Policy (Biodiversity And Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport & Infrastructure) 2021
- Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP)

An assessment of the merits of the proposed development against the applicable controls of the above EPIs is detailed in this Statement below:

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5.1.1 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

SEPP Biodiversity 2021's Chapter 6 (Water Catchments) includes the *Georges River Catchment*. The aim of the *Georges River Catchment* Chapter is to ensure that the *Georges River Catchment* is protected, enhanced and maintained. The Chapter also aims to achieve a high quality and ecological sustainable urban environment and encourage a culturally rich and vibrant place for people.

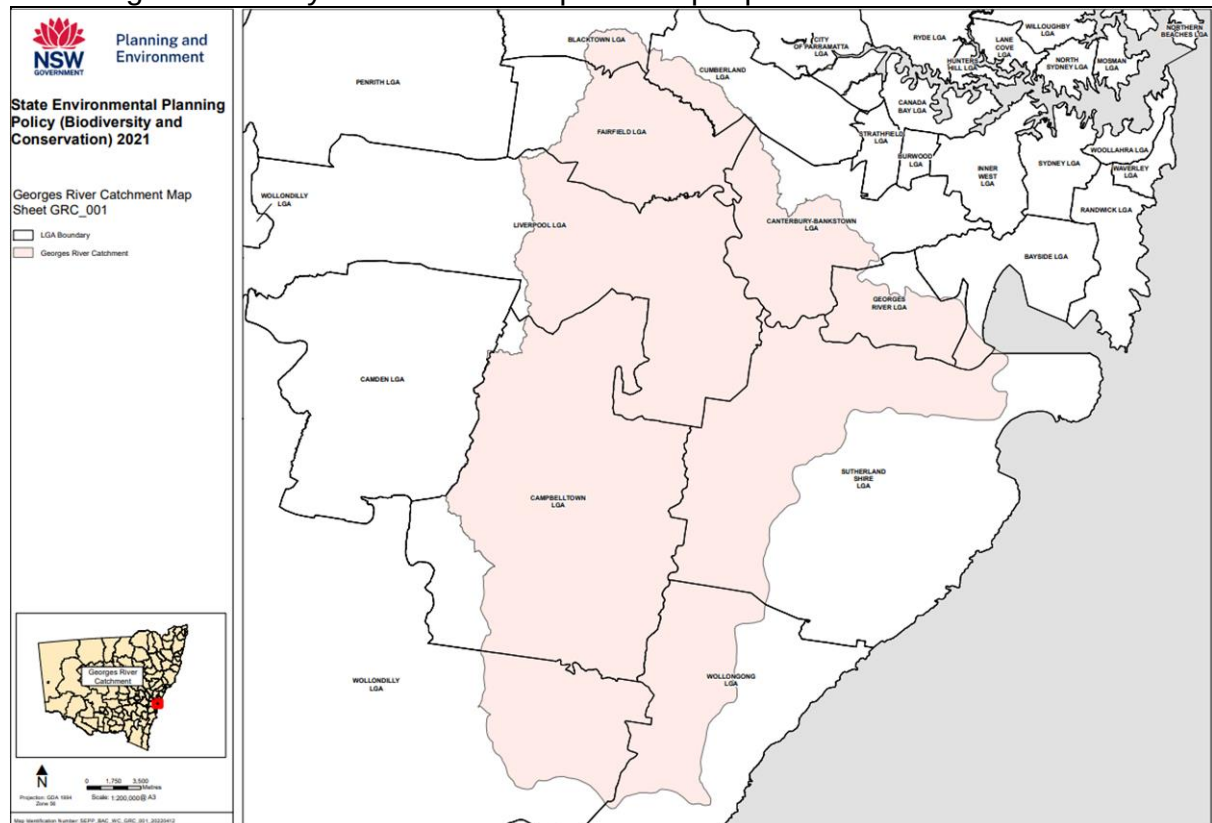


Figure 12 – SEPP Biodiversity 2021's Georges River Catchment Map Source: NSW Government

The site is subject to the provisions of the SEPP as it is located generally within the *Georges River Catchment* and stormwater eventually drains into the Georges River. However, the site is not located well-away from any foreshores areas. There are no provisions in this Chapter of direct relevance given the location of site well-away from major waterways.

Having regard to all the above, the S4.55 proposal is considered to be generally consistent with the aims and objectives of the *Water Catchment* Chapter of the *Biodiversity SEPP*.

5.1.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 repealed the former *State Environmental Planning Policy No. 55* but essentially retains and transfers all existing provisions of SEPP 55 into Chapter 4 (Remediation of land) of the new SEPP. The aim of the Remediation Chapter is to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated.

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The history of land uses for the site has been considered as an indicator for potential contamination of the site. A review of the *NSW Environmental Protection Authority's* record of notices issued under section 58 of the *Contaminated Land Management Act 1997* has returned no results for the subject site.



Figure 13 – 1943 Aerial Map Source: NSW Government

This Section 4.55(2) modification application (MA) seeks Council consent for minor modifications to DA6317/92 to modify (reduce) the approved number of car parking spaces, to delete the 3 parking spaces within the front car park (Canterbury Road).

Any issues regarding contamination would have been previously addressed by the base building approval under DA6317/92. Furthermore, no building and/or excavation works is proposed by this Section 4.55(2) MA and as such further investigation of the site's potential contamination is considered to be not required.

5.1.3 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT & INFRASTRUCTURE) 2021

SEPP (Transport & Infrastructure) 2021 repeals and replaces 4 former SEPPs (including *SEPP Infrastructure 2007*), and aims to facilitate the effective delivery of

infrastructure across the State. The following considerations are relevant to this application:

- The application is not subject to clause 2.47 of the SEPP as the development does not propose works within the vicinity of electricity infrastructure.
- The application is not subject to clause 2.118 of the SEPP as the site is not within land reserved as a proposed classified road
- The application “technically” requires consideration under clause 2.119 of the SEPP as Canterbury Road is a classified road (Figure 14) – refer to discussion below.
- The application is considered to not be subject to clause 2.120 of the SEPP as the DA does not relate to residential accommodation development ¹. Furthermore, TfNSW website does not contain published traffic volume data for Canterbury Road (it is therefore assumed that the traffic volume is below the threshold).
- The application is not subject to clause 2.122 of the SEPP as The S4.55 proposal is not “traffic-generating development” and does not require referral to TfNSW as per Schedule 3 of the SEPP (Figure 15).
- The proposed Section 4.55(2) MA will not change to the existing vehicle access arrangements to the subject front car park (ingress from Bramhall Avenue and egress to Canterbury Road), and will not compromise the safety, efficiency or ongoing operation of the classified road network.

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Therefore, the S4.55 proposal is deemed to satisfy the relevant *SEPP (Transport & Infrastructure) 2021* objectives and aims.

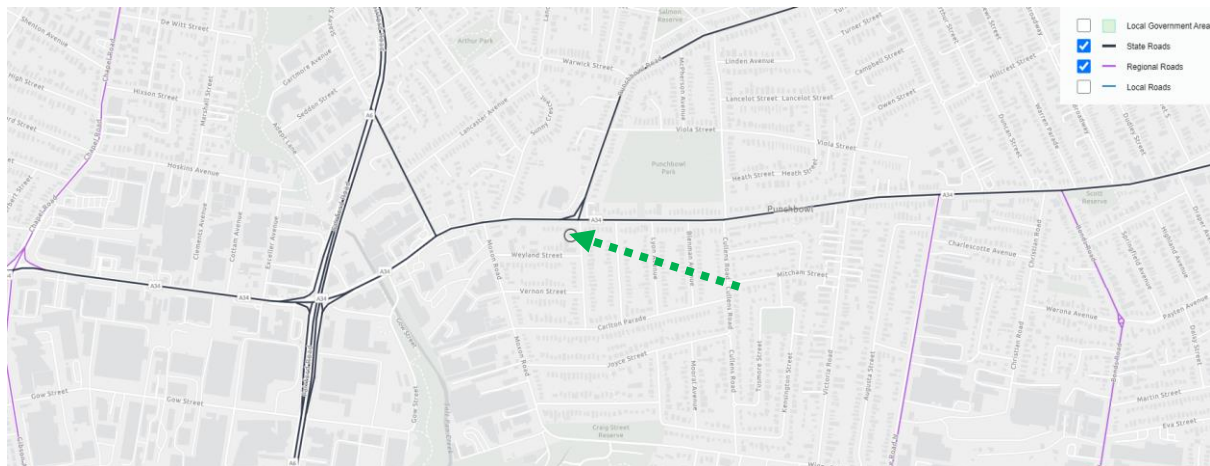


Figure 14 – RMS Classified (State & Regional) Roads map (site is green arrow) Source: NSW Government

¹ Clause 2.120 applies to residential accommodation development on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration

Column 1	Column 2	Column 3
Purpose of development	Size or capacity—site with access to a road (generally)	Size or capacity—site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road)
Airports or heliports	Any size or capacity	Any size or capacity
Car parks (whether or not ancillary to other development)	200 or more car parking spaces	50 or more car parking spaces
Commercial premises (other than premises specified elsewhere in this table)	10,000m ² in gross floor area	2,500m ² in gross floor area
Food and drink premises (other than take away food and drink premises with drive-through facilities)	Car parking for 200 or more motor vehicles	300m ² in gross floor area
Freight transport facilities	Any size or capacity	Any size or capacity
Hospitals	200 or more beds	100 or more beds
Industry	20,000m ² in site area or (if the site area is less than the gross floor area) gross floor area	5,000m ² in site area or (if the site area is less than the gross floor area) gross floor area
Liquid fuel depots	8,000m ² in site area or (if the site area is less than the gross floor area) gross floor area	8,000m ² in site area or (if the site area is less than the gross floor area) gross floor area
Residential accommodation	300 or more dwellings	75 or more dwellings
Service stations without heavy vehicle refuelling or maintenance services	Any size or capacity	Any size or capacity
Service stations with heavy vehicle refuelling or maintenance services	Any size or capacity	Any size or capacity
Shops	2,000m ² in gross floor area	500m ² in gross floor area
Subdivision of land	200 or more allotments where the subdivision includes the opening of a public road	50 or more allotments
Take away food and drink premises with drive-through facilities	200 or more motor vehicles per hour	Any size or capacity
Transport depots	8,000m ² in site area or (if the site area is less than the gross floor area) gross floor area	8,000m ² in site area or (if the site area is less than the gross floor area) gross floor area
Warehouse or distribution centres	8,000m ² in site area or (if the site area is less than the gross floor area) gross floor area	8,000m ² in site area or (if the site area is less than the gross floor area) gross floor area
Waste or resource management facilities	Any size or capacity	Any size or capacity
Any other purpose	200 or more motor vehicles per hour	50 or more motor vehicles per hour

Figure 15 – Schedule 3 Traffic-generating development to be referred to TfNSW *Source: NSW Government*

5.1.4 CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

The subject land is located within the *City of Canterbury Bankstown* LGA, and the primary environmental planning instrument (EPI) currently in force is the *Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP 2023)*. Refer to the *CBLEP 2023* Heading for more details.

5.1.5 DRAFT PLANNING INSTRUMENTS

Section 4.15(1)(a)(ii) of the Act requires consideration of *the provisions of any publicly exhibited Draft Environmental Planning Instruments*. No Draft Planning Instruments are applicable to this development.

5.1.6 CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 (CBDCP 2023)

Section 4.15(1)(a)(iii) of the Act requires consideration of *the provisions of any Development Control Plan (DCP)*. The DCP that is relevant to this development is the *Canterbury-Bankstown Development Control Plan 2023 (CBDCP)*. Refer to the *CBDCP 2023* Heading further on in this Statement for more details.

5.1.7 PLANNING AGREEMENTS

Section 4.15(1)(a)(iia) of the Act requires consideration of *the provisions of any Planning Agreement*. No Planning Agreements are applicable to this development.

5.1.8 PRESCRIBED MATTERS ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2021

Section 4.15(1)(a)(iv) of the Act requires consideration of *the provisions of the Regulations*. Clause 61 of *the Regulation* requires Council to take into consideration, inter alia, the provisions of subdivision, and the relevant Australian Standard for the demolition of buildings in the determination of a development application. The proposed development is capable of complying with the relevant provisions of *the Regulations 2021*.

5.2 IMPACT OF THE DEVELOPMENT

Section 4.15(1)(b) of the Act requires consideration of the likely impacts of the development. The proposed development will have minimal adverse impacts on the surrounding natural and built environment, will be compatible with the character of the area and will retain the existing/approved use (specialised retail premises) that responds to the needs of the owner/occupant, the local community and/or visitors to the area whilst having minimal impact on the locality and amenity of surrounding properties.

Throughout this Statement the S4.55 proposal's likely environmental impacts on both the natural and built environments and social and economic impacts in the locality have been considered. A summary of the assessment of these matters is provided below:

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5.2.1 (i) SITING, DESIGN AND THE BUILT FORM

Not applicable. The development is only to modify (reduce) the approved number of car parking spaces, to delete the 3 parking spaces within the front car park (Canterbury Road), and the siting and overall built form of the existing base building remains unchanged, and therefore will have no significant detrimental impacts on the surrounding natural or built environment.

5.2.2 (ii) PRIVACY

The development to modify (reduce) the approved number of car parking spaces, to delete the 3 parking spaces, will not give rise to unacceptable acoustic and visual privacy impacts for nearby premises.

5.2.3 (iii) SOLAR ACCESS AND OVERSHADOWING

Not applicable.

5.2.4 (iv) TREE REMOVAL, LANDSCAPING, FLORA & FAUNA

Not applicable.

5.2.5 (v) TRAFFIC & PARKING

The site also has good public transport options e.g. 2 bus stops along Canterbury Rd in the immediate vicinity of the site (less than 1 minute walk) being Canterbury Road at Punchbowl Road & Canterbury Road before Bramhall Avenue, both serviced by Bus Route# 487.

Council has historically allowed the reduction in car parking requirements for this site based on operational needs e.g. truck manoeuvring area and/or evolving business requirements. It is considered reasonable that the 3 parking spaces proposed to be removed, can be supported given that:

1. The *Phronic Furniture* shop only has 1 employee (the owner/operator of the business) who – due to her disability and medication, cannot drive – and instead is dropped-off and picked-up daily by her eldest daughter. In this regard, there

is no car parking demand/requirement for the sole employee/owner/operator of the business.

2. The *Phronic Furniture* shop is highly specialised and has a niche target clientele i.e. high-end/luxury, custom-made, Egyptian furniture and therefore it is a very small client base. The owner/operator indicates that the business has only 1 – 2 customer visit per day on average.
3. In the over 22 years since the original DA was approved, the business has drastically evolve due to significant advances in technology e.g. the method in which sales are now made with a significant portion of transactions now completed remotely i.e. online sales, and as such does not generate “foot traffic”
4. The evolution of the bulky goods industry means that the majority of market demand/share is for generic, “flat-packed” furniture from brand retailers such as IKEA. The highly-customised and specialised smaller retailers such as *Phronic Furniture* only has intermittent visits – see point 2 above.
5. In the over 22 years since the original DA was approved, the transport behaviour of consumers have also evolved with the general public now consciously minimising their “carbon-footprint” by utilising various more sustainable options such as walking, cycling, car-pooling and/or ride-share (e.g. Uber) which has translated into significantly lower car parking demand.

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Based on the above, it is considered that the development will not have any unacceptable impacts on the proposed reduced parking arrangement, and there are no reasons why the proposed development should be not supported on car parking / traffic engineering grounds.

5.2.6 (VI) UTILITIES/INFRASTRUCTURE

Existing utilities infrastructure is available and no augmentation of existing utilities infrastructure is required.

5.2.7 (VII) NATIONAL CONSTRUCTION CODE/BUILDING CODE OF AUSTRALIA

Building Code matters would have been previously addressed by the base building approval under DA6317/92. Furthermore, no building works is proposed by this Section 4.55(2) MA.

5.2.8 (VIII) HERITAGE IMPACTS

The subject site is not a Heritage Item, is not in the vicinity of any other Heritage Items and is not located within any Heritage Conservation Area (HCA) – also refer to Heading 6.1.9 of this SoEE for further discussion.

5.2.9 (IX) SOCIAL IMPACTS

The proposed Section 4.55(2) MA will not pose any negative social impacts on the locality. The existing business will continue to provide customers with a specialised retail premises option, and as such is a positive social contribution to the public.

5.2.10 (X) ECONOMIC IMPACTS

The development is considered to result in positive economic benefits for the local and wider community by maintaining the existing business, and hence generate and maintain economic activities, which is critical for the wider economy during the current economic downturn.

5.2.11 (XI) STORMWATER MANAGEMENT

Not applicable.

5.2.12 (XII) SOIL MANAGEMENT

Not applicable.

5.2.13 (XIII) CONTAMINATION

Not applicable.

5.2.14 (XIV) WASTE MINIMISATION/MANAGEMENT

The existing waste minimisation and avoidance measures currently implemented for ongoing use/operation of the existing business remains as-existing (unchanged).

5.2.15 (XV) CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN – CPTED

The existing site is considered to be consistent with the relevant CPTED provisions as the site provides clear boundary delineation including security fencing/gate between the public and private domains for territorial reinforcement. The S4.55 proposal will not increase opportunity for criminal or anti-social behaviour to occur.

5.2.16 (XVI) CONSTRUCTION IMPACTS

Not applicable as building works are not proposed.

5.2.17 (XVII) ESD & THE CUMULATIVE IMPACT

The development 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 site.

5.3 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Section 4.15(1)(c) of the Act requires consideration of the suitability of the site for the development. The S4.55 proposal is permissible within the B5 Business Development zone in accordance with CBLEP 2023 and the assessment of the proposal contained within this Statement outlines how the proposal generally achieves a satisfactory level of compliance with Council's.

The proposal is of a minor/administrative nature in keeping with the overall function of the site and is considered to have minimal impact on the locality and amenity of surrounding properties.

It is evident from the above and the assessment provided within this Statement that the site is suitable for the proposed development. This is discussed in more details below.

5.4 NOTIFICATION, ADVERTISING AND SUBMISSIONS RECEIVED

Section 4.15(1)(d) of the Act requires consideration of *any submissions made in accordance with this Act or the Regulations*. The application will be notified in accordance with Council's relevant community engagement Policy. The applicant will respond to any submissions received (as relevant) during the notification period.

5.5 THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires consideration of *the public interest*. The proposed development is permissible on the land, and The S4.55 proposal achieves the objectives of the *B5 Business Development* zone. More on this further below in this Statement.

The proposed development satisfies the client's requirements and is acceptable having regard to the applicable State and Council planning controls. The proposed development will have minimal impact on the locality and amenity of surrounding properties as detailed in the assessment provided throughout this Statement.

In view of the above, the proposed development is considered to be in the public interest, and represents an orderly and economic use of land that is consistent with the Council's land use objectives & controls.

6 CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

6.1 DEVELOPMENT STANDARDS

Below are the relevant development standards that are considered to be applicable to this development under *Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP)*.

6.1.1 CONSENT AUTHORITY

Clause 1.6 of the *CBLEP 2023* specifies that "the consent authority for the purposes of this Plan is the Council" i.e. *City of Canterbury Bankstown Council*.

6.1.2 SUBDIVISION

In relation to subdivision, *CBLEP 2023*² requires that:

- (1) *Land to which this Plan applies may be subdivided, but only with development consent.*

Notes.

1 *If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.*

2 *Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.*

² Clause 2.6

- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the dwelling house being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.
- Note.** The definition of **secondary dwelling** in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

Subdivision is not proposed by this application.

6.1.3 DEMOLITION

Clause 2.7 of the *CBLEP 2023* specifies that “the demolition of a building or work may be carried out only with development consent”. Demolition is not proposed by this application.

6.1.4 LAND USE

The site is zoned *B5 Business Development* under *CBLEP 2023*. The aims and objectives of the *B5 Business Development* zone are set out in the Land Use Table as follows:

1 Objectives of zone

- To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To promote a high standard of urban design and local amenity.

2 Permitted without consent

Home occupations

3 Permitted with consent

Building identification signs; Business identification signs; Business premises; Centre-based child care facilities; Food and drink premises; Garden centres; Hardware and building supplies; Kiosks; Landscaping material supplies; Markets; Neighbourhood shops; Office premises; Oyster aquaculture; Passenger transport facilities; Plant nurseries; Respite day care centres; Roads; Specialised retail premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Community facilities; Correctional centres; Crematoria; Depots; Early education and care facilities; Eco-tourist facilities; Electricity

generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Places of public worship; Pond-based aquaculture; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Sewerage systems; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities



Figure 16 – CBLEP 2023 Zoning Map Source: NSW Legislation

specialised retail premises means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires:

- a large area for handling, display or storage, or
- direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.

Note: Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.

DA6317/92 approved the use building for the purposes of bulky house hold goods, and the existing furniture shop (*Phronic Furniture*) has continued on with this approval. Furthermore, *specialised retail premises* is a permissible land use within the *B5 Business Development* zone. The use is consistent with one or more of the objectives of the zone in that it will contribute to the mix of business and warehouse uses, and specialised retail premises that is characteristic of the *B5 Business Development* zone.

Importantly, the S4.55 proposal will maintain the existing approved use as a specialised retail premises (noting that the previous specialised retail premises use “*The Fan King*” ceased operations presumably due the current difficult/uncertain business conditions and economic downturn).

6.1.5 MINIMUM LOT SIZE FOR SUBDIVISION

Under Clause 4.1 of *CBLEP 2023*, the site has no minimum size for subdivision standard.

As discussed previously, subdivision is not proposed by the subject s4.55 MA.



Figure 17 – CBLEP 2023 Subdivision Lot Size Map Source: NSW Legislation

6.1.6 HEIGHT OF BUILDINGS

Under Clause 4.3 of *CBLEP 2023* the site has a maximum building height standard of 18m.

No physical works are proposed and the subject s4.55 MA will not alter the existing height of the base building.



Figure 18 – CBLEP 2023 Height Map Source: NSW Legislation

6.1.7 FLOOR SPACE RATIO

Under Clause 4.4 of *CBLEP 2023*, the site has no a maximum FSR standard.

Notwithstanding, the application will not impact on the gross floor area (GFA) / FSR of the site i.e. no additional floor space, and no changes to the existing envelope and built form of the base building is proposed by the subject s4.55 MA.



Figure 19 – CBLEP 2023 FSR Map Source: NSW Legislation

6.1.8 EXCEPTIONS TO DEVELOPMENT STANDARDS

CBLEP 2023³ states the following in relation to exceptions (non-compliance) against the development standards of the Plan:

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

No variations to development standards is proposed by the subject s4.55 MA, and therefore a variation request under Clause 4.6 is not required.

- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

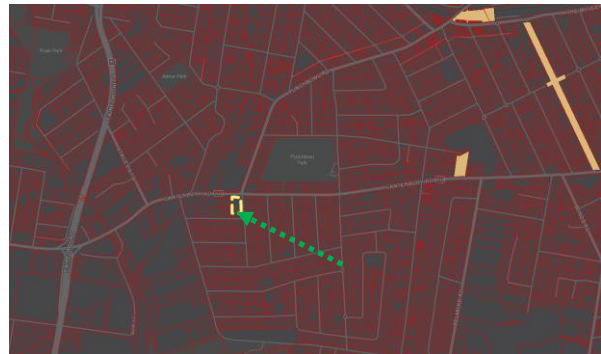


Figure 20 – CBLEP 2023 Heritage Map Source: NSW Legislation

6.1.9 HERITAGE CONSERVATION

Clause 5.10 of CBLEP 2023 contains following provisions for development on land that is identified as a Heritage Item or located within a Heritage Conservation Area:

- (5) **Heritage assessment**
The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or

As discussed previously, the site is not a Heritage Item, is not in the vicinity of any other Heritage Items and is not located within any Heritage Conservation Area (HCA).

Therefore the subject s4.55 MA will not have any adverse impact on the natural or built heritage environment.

6.1.10 ACID SULFATE SOILS & EARTHWORKS

Clauses 6.1 & 6.2 of CBLEP 2023 contains respective provisions relating to Acid Sulfate Soils & Earthworks. The site is identified as being located within Class 5 Acid Sulfate Soils.

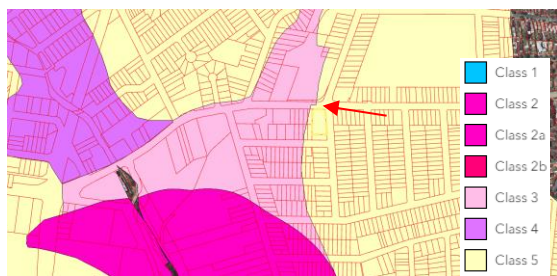


Figure 21 – Acid Sulfate Soils Map Source: NSW Legislation

Notwithstanding, no building / excavation / earthworks is proposed by this s4.55 MA. Therefore a Preliminary Assessment and/or an Acid Sulfate Soils Management Plan is not required.

³ Clause 4.6

6.1.11 AIRCRAFT NOISE

Clause 6.7 of CBLEP 2023 requires the consent authority to consider the following in relation to aircraft noise:

- (1) The objectives of this clause are as follows:
 - (a) to prevent certain noise sensitive developments from being located near Bankstown Airport and its flight paths,
 - (b) to assist in minimising the impact of aircraft noise from Bankstown airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
 - (c) to ensure that land use and development near Bankstown airport do not hinder or have other adverse impacts on the ongoing, safe and efficient operation of Bankstown airport.
- (2) Development consent must not be granted to development involving the erection of a dwelling, other than a dwelling house, on land near Bankstown Airport in an ANEF contour between 20 and 25 unless the consent authority is satisfied the dwelling meets the standards specified in AS 2021:2015.
- (3) Development consent must not be granted to development involving the erection of a dwelling house or seniors housing on land near Bankstown Airport in an ANEF contour over 25 unless the consent authority is satisfied that the nature of occupation or internal noise attenuation measures enable reasonable amenity for the occupants.
- (4) Development consent must not be granted to development for the purposes of dual occupancies, multi dwelling housing, attached dwellings, boarding houses or centre-based child care facilities on land near Bankstown Airport in an ANEF contour over 25.
- (5) Development consent must not be granted to development involving the erection of hotel or motel accommodation, office premises or public administration buildings on land near Bankstown Airport in an ANEF contour over 25 unless the consent authority is satisfied the building meets the standards specified in AS 2021:2015.
- (6) In this clause:

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Bankstown Airport prepared by the Department of the Commonwealth responsible for airports.

AS 2021:2015 means AS 2021—2015, Acoustics—Aircraft noise intrusion—Building siting and construction.

The Bankstown Airport's *Australian Noise Exposure Forecast* (ANEF) contours are shown in Figure 22 below. The site (red arrow) is located well-away from Bankstown Airport (to the west) and is not within any of the mapped ANEF contours as per Council's Mapping overlay. Furthermore, the existing approved use as a *specialised retail premises* (furniture showroom) within the *B5 Business Development* zone is not a noise-sensitive use e.g. residential or child-care, and therefore the provisions of Clause 6.7 is considered to be generally not applicable and the development acceptable in terms of aircraft noise exposure.

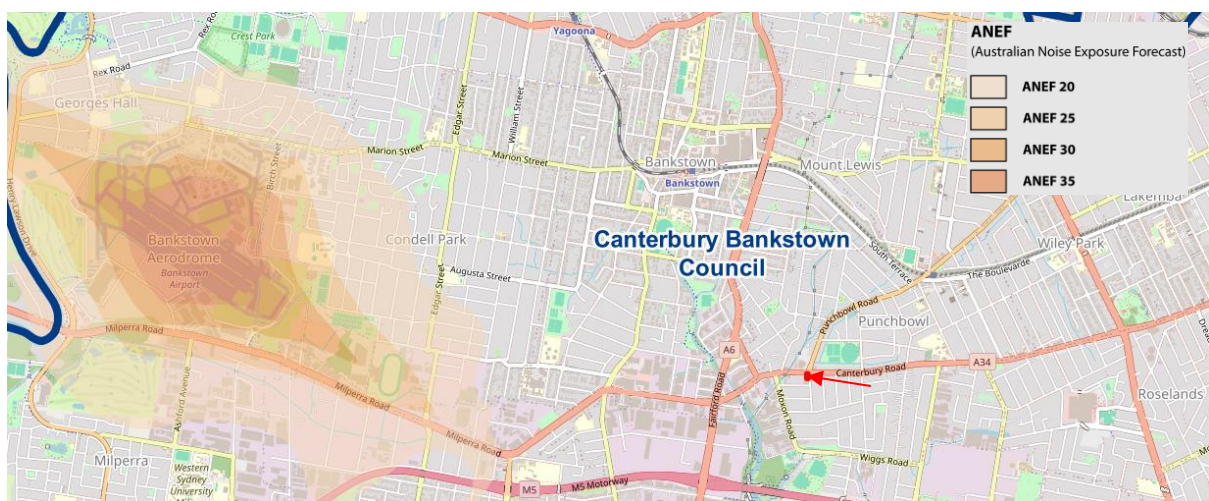


Figure 22 – Bankstown Airport ANEF Map Source: Council

6.1.12 ADDITIONAL PERMITTED USES

Pursuant to Clause 2.5, the property is identified on Schedule 1 (sub-clause 13) – Additional Permitted Uses – of CBLEP 2023, which states as follows:

13 Use of certain land along Canterbury Road

- (1) This clause applies to land identified as “APU 13” on the [Additional Permitted Uses Map](#).
- (2) Development for the purposes of residential accommodation is permitted with development consent if:
 - (a) the development is part of a mixed use development, and
 - (b) for development for the purposes of boarding houses—the area of the lot on which the development is to be carried out is equal to or greater than 5,000m².



Figure 23 – Additional Permitted Uses Map Source: NSW Government

The subject application does not seek to change the existing approved use as a *specialised retail premises* (furniture showroom) on the site, and as such the provisions of Schedule 1 is not applicable.

7 **CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023**

Canterbury-Bankstown Development Control Plan 2023 (CBDCP) was adopted by Council on 25 May 2021 and it came into effect on 23 June 2023. The majority of controls within *CBDCP 2023* are generally intended to guide new-build developments. All relevant planning controls such as height, site coverage, floor space, setbacks would have previously been considered by Council as part of Council's assessment and approval of *DA6317/92*.

The proposed s4.55 MA to modify *DA6317/92* is substantially the same as the development that was initially approved by Council (as amended by subsequent modifications including the various reduction to parking), and all issues that are relevant to this MA have been addressed in the relevant Headings of this Statement. Having regard to this, it is considered that the development is generally consistent with *CBDCP 2023*.

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8 **CONCLUSION**

Council's development consent is sought pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, for minor modifications to *DA6317/92* to modify (reduce) the existing number of car parking spaces and delete the 3 parking spaces within the front car park (Canterbury Road). This Statement has considered the matters prescribed in Section 4.15 & 4.55 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*.

This Statement demonstrates how the proposed development (as proposed to be amended) satisfies the relevant planning controls prescribed in the applicable *State Environmental Planning Policies*. The S4.55 proposal is permissible in the *B5 Business Development* zone and achieves a high level of compliance with the *CBLEP 2023* and associated *CBDCP 2023*.

The proposed s4.55 development will have minimal adverse impacts on the surrounding natural and built environment, and retain the existing/approved use (*specialised retail premises*) that responds to the needs of the owner/occupant, the local community and/or visitors to the area whilst having minimal impact on the locality and amenity of surrounding properties, generally complies with Council's planning controls, and will not adversely impact on adjoining buildings, land and open space, in terms of shadowing, overlooking, views, privacy/visual intrusion etc.

It is considered reasonable that the 3 parking spaces proposed to be removed, can be supported given that:

1. The *Phronic Furniture* shop only has 1 employee (the owner/operator of the business) who – due to her disability and medication, cannot drive – and instead is dropped-off and picked-up daily by her eldest daughter. In this regard, there is no car parking demand/requirement for the sole employee/owner/operator of the business.
2. The *Phronic Furniture* shop is highly specialised and has a niche target clientele i.e. high-end/luxury, custom-made, Egyptian furniture and therefore it is a very

small client base. The owner/operator indicates that the business has only 1 – 2 customer visit per day on average.

3. In the over 22 years since the original DA was approved, the business has drastically evolve due to significant advances in technology e.g. the method in which sales are now made with a significant portion of transactions now completed remotely i.e. online sales, and as such does not generate “foot traffic”
4. The evolution of the bulky goods industry means that the majority of market demand/share is for generic, “flat-packed” furniture from brand retailers such as IKEA. The highly-customised and specialised smaller retailers such as *Phronic Furniture* only has intermittent visits – see point 2 above.
5. In the over 22 years since the original DA was approved, the transport/travel behaviour of consumers have also evolved with the general public now consciously minimising their “carbon-footprint” by utilising various more sustainable options such as walking, cycling, car-pooling and/or ride-share (e.g. Uber) which has translated into significantly lower car parking demand.

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Given all the above and having regard to the comprehensive assessment undertaken throughout this Statement, and given the lack of detrimental impacts, the proposed s4.55 MA to modify DA6317/92 is substantially the same as the development that was initially approved by Council, and is considered to be in the interest of the public pursuant to Section 4.15(1)(e) of *the Act 1979* and is worthy of support from Council.

9 ADDENDUM



Figure 24 – View of the furniture shop's showroom area (front-of-house)



Figure 25 – View of the furniture shop's showroom area (front-of-house)



Figure 26 – View of the furniture shop's showroom area (front-of-house)



Figure 27 – View of the furniture shop's rear storage area (back-of-house)



Figure 28 – View of the furniture shop's rear storage area (back-of-house)