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# STATEMENT OF ENVIRONMENTAL EFFECTS

Date: 22 November 2024

Reference No. 61BSS

Revision No. A

Subject Site:  
61 Batt Street, Sefton

Prepared on behalf of:  
Construct Design & Building Group

Proposal:  
Section 4.55(1A) application to modify approved secondary dwelling and swimming pool.



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## 1. EXECUTIVE SUMMARY

This Statement of Environmental Effects has been commissioned on behalf of Construct Design & Building Group. This Statement of Environmental Effects should be read in conjunction all associated documentation which accompanies the subject application.

The purpose of this report is to accompany a Section 4.55(1A) application to modify a Development Consent No. DA-329/2024 for the demolition, construction of a detached secondary dwelling and in-ground swimming pool and new landscaping issued by the City of Canterbury Bankstown ("Council") on 22 August 2024 on land at 61 Batt Street, Sefton. This statement is made in accordance prescribed application requirements as outlined by the Planning Secretary on the NSW Planning Portal and serves as a fundamental component of the application submitted to Council.

This statement is made in accordance with the application requirements set out by the approved form approved by the Planning Secretary and published on the NSW Planning Portal and is made in support of the application for review submitted to Council. This application has been prepared in accordance with Part 3 of the *Environmental Planning and Assessment Regulation 2021* and this statement provides commentary against the provisions of the *Environmental Planning and Assessment Act 1979*. The structure statement is as follows:

- **Site and context:** Details and examination of the site and its surrounding context.
- **Proposal details:** Detailed information regarding the proposed development.
- **Consideration of the relevant statutory provisions:** Provide an analysis of relevant statutory provisions applicable to the development.
- **Consideration of impacts:** Assist the consent authority in identifying any associated environmental impacts which could potentially arise from the development and address how those impacts are mitigated and/or achieve the objects of the relevant standard(s).
- **Recommendation:** Provide a recommendation for the proposed development to assist the consent authority in their determination of the application.

This statement demonstrates that the proposed modification is substantially the same, an acceptable form of development that is responsive to the site and satisfies the intended objectives of the zone. The modification does not unduly result in significant adverse material, environmental, social or economic impacts and is considered is suitable for the site.

The modification is neither is considered to unduly result in significant adverse material, environmental, social or economic impacts and is considered is suitable for the site. The proposed modification is neither considered to raise any issues which would be contrary to the public interest and finally, it is recommended that a favourable determination be sought by Council.



## 2. SITE DETAILS

### 2.1 Site Identification

The subject site is located along the southern side of Batt Street and is legally described as Lot 15, in DP 14966 commonly known as 61 Batt Street, Sefton.

### 2.2 Site Dimensions

The subject site has an areas of 575.4m<sup>2</sup>, is rectangular in shape and characterised as a standard lot. The subject site has a frontage of 12.800 metres to Batt Street, depths of 45.115 metres along the eastern boundary, 45.125 metres along the western boundary and a width of 12.800 metres at the northern rear boundary.

### 2.3 Existing Development

The existing land use on the subject site is to be used for residential accommodation and includes single storey dwelling house with ancillary structures.

### 2.4 Topography

There is no notable topographical features of the site as the subject site is relatively flat with a minor fall.

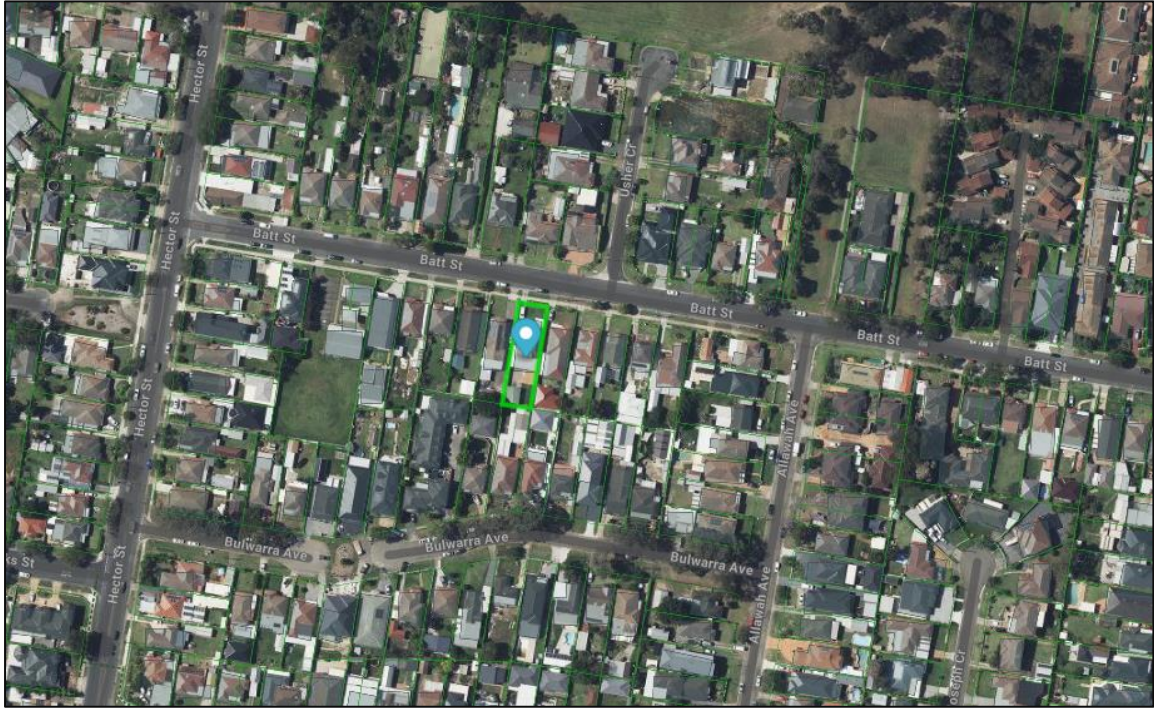
### 2.5 Zoning and Surrounding Development

The subject site is located within an R2 Low Density Residential zone under the Canterbury Bankstown Local Environmental Plan 2023 and is surrounded by a mix of XXX developments each diverse in age, scale, intensity and architectural style within a domesticated landscaped setting.

### 2.6 Development History

Application No.	Issue Date	Description
BA-83/1993	19 January 1993	Council issued approval of a Building Application for a garage.
DA-1010/2000	26 May 2000	Development consent was issued for a front and rear verandah.
CC-1010/2000	28 June 2000	A Construction Certificate was issued for DA-1010/2000.
DA-324/2024	27 March 2024	A Development Application was withdrawn for a detached secondary dwelling and swimming pool.
DA-329/2024	22 August 2024	Development consent was issued for demolition, construction of a detached secondary dwelling and in-ground swimming pool and new landscaping.
CC-510/2024	2 November 2024	A Construction Certificate was issued for DA-329/2024.





**Figure 1:** Aerial Photograph of Subject Site (Source: Mecone Mosaic).

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### 3 MODIFICATION

Application for modification pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, to modify Development Consent No. DA-329/2024 for the demolition, construction of a detached secondary dwelling and in-ground swimming pool and new landscaping issued by the City of Canterbury Bankstown ("Council") on 22 August 2024.

#### 3.6 Proposed Modifications

The details of the proposed modification are reflected on the provided Architectural Plans and detailed below.

- Relocate the positioning of the approved swimming pool 300mm toward the secondary dwelling.
- Deletion of a fixed window identified as W7 adjoining the alfresco along the eastern elevation of the secondary dwelling.
- Deletion of W2 along the western elevation and replace W1 with a smaller window including the introduction of W1.1.
- Modify the roof form of the secondary dwelling from a pitched roof to a flat roof.

#### 3.7 Condition to be modified

Condition 1 "*Approved Plans and supporting documentation*" is proposed to be modified to substitute the approved architectural plans and documents in line with the proposed modifications.

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## 4. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A Act)

### 4.1 Modifications Involving Minimal Environmental Impact (Section 4.55(1A))

*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—*

#### 4.1.1 Minimal Environmental Impact (Section 4.55(1A)(a))

The modification involves a minor repositioning to the approved swimming pool, modifications to the windows and roof form of the secondary dwelling which does not result in any additional or increased material impacts. Therefore, the modification will not result in anything more than a minor environmental impact.

#### 4.1.2 Substantially the Same (Section 4.55(1A)((b))

The consent authority must be satisfied that the development as modified is “*substantially the same*” development as the originally approved as set out in Section 4.55(2)(a) of the *Environmental Planning and Assessment Act 1979*.

The relevant tests to demonstrate that a development as modified is substantially the same can be found in the findings of the Land and Environment Court case, *Moto Projects (No. 2) Pty Limited v North Sydney Council [1999] NSWLEC 280*. This case establishes two (2) elements to determine if the development is substantially the same as initially approved. The elements to be satisfied is whether the proposal is qualitative and quantitatively the same development as approved.

The development as modified is considered to not substantially alter the development as consented or result in adverse changes to the extent of the built form nor results in adverse material impact to surrounding properties, streetscape or environment.

The modified development retains the core essence and characteristics of the originally consented development. The fundamental attributes such as the overall built form, the impact on the surrounding properties, streetscape and environment remain unaltered. The modification involves a minor repositioning to the approved swimming pool, modifications to the windows and roof form of the secondary dwelling.

The proposed level of changes does not constitute to a radical transformation the originally approved development. The proposal is in essence the same development as approved and maintains the same use as approved development. The exterior appearance of the building remains essentially the same in terms of textures, aesthetics and form and the building footprint does not change.

Finally, the proposal does not result in any additional quantifiable or material impact in comparison to the development as consented as the principal and essential features of the original approval are maintained. Considering the subtle nature of the modification, the development as modified is both qualitatively and quantitatively the same



development as approved allowing the consent authority to be satisfied that the development as modified is substantially the same.

#### **4.1.3 Notification and Consideration of Submissions**

Any submissions received as a result of notification will be considered by the consent authority.

#### **4.1.5 Consideration of Section 4.15(1) and Reasons for the Granting of Consent (Section 4.55 (3))**

The proposed modification does not alter any reasons as to why the consent was initially granted and commentary regarding Section 4.15(1) is made below.

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## 5. STATE ENVIRONMENTAL PLANNING INSTRUMENTS - Section 4.15(a)(i)

The proposed modification does not impact on the originally approved developments performance against any State Environmental Planning Policy (SEPP). The proposed modification is acceptable with regard to the consideration of any SEPP currently in force.

## 6. LOCAL PLANNING INSTRUMENTS – CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023 (CBLEP 2023) – Section 4.15(1)(a)(i)

CBLEP 2023 is the relevant Local Environmental Planning Instrument applicable to the subject site. The following below provides commentary of the relevant Parts, Development Standards and/or Controls contained within CBLEP 2023 which are applicable to the subject proposal.

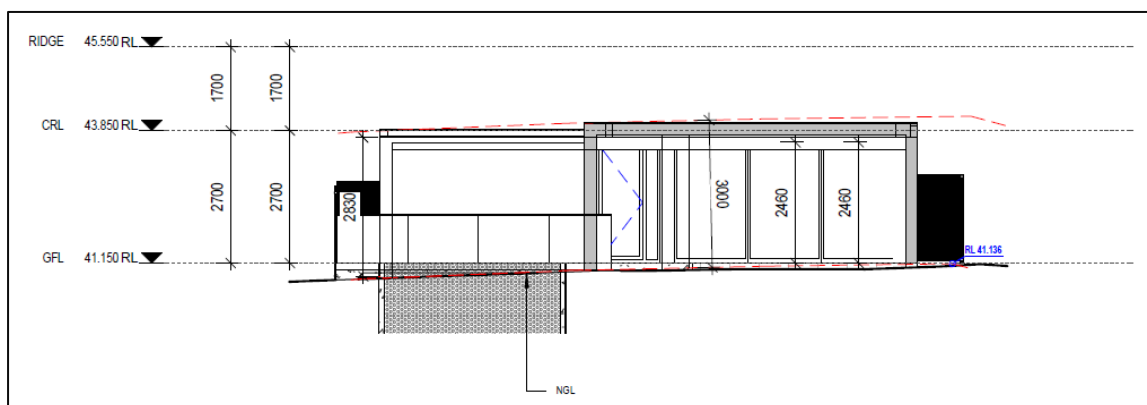
### 6.1 Part 4 Principal development standards

#### 6.1.1 Clause 4.3(2A) – Maximum height of secondary dwelling

Pursuant to Clause 4.3(2A), the maximum height for secondary dwellings in “Area 1” is 6 metres. The modification involves changes to the approved roof from from a pitched roof to a flat roof which lowers the building height from what was initially approved. The modified roof form is well below the maximum 6 metre height limit prescribed by the development standard.

#### 6.1.2 Clause 4.3(2B) – Maximum wall height for secondary dwellings

Pursuant to Clause 4.3(2B), the maximum wall height for secondary dwellings on land in “Area 1” is 3 metres. The secondary dwelling retains compliance with the development standard as the wall height does not exceed 3 metres.



**Figure 2:** Northern elevation of the secondary dwelling (as modified) illustrating compliance with the maximum 3 metre wall height limit.

## 6.2 Part 5 Part 5 Miscellaneous provisions

There are no miscellaneous provisions contained within Part 5 which are applicable to the modification.

## 6.3 Part 6 Additional Local Provisions

There are no additional local provisions contained within Part 6 which are applicable to the modification.

## 7. ANY PROPOSED ENVIRONMENTAL PLANNING INSTRUMENT - Section 4.15(1)(a)(ii)

There is no relevant draft EPI, Planning Proposal or Plan relevant to the modification.

## 8. DEVELOPMENT CONTROL PLAN - Section 4.15(1)(a)(iii)

### 8.1 Canterbury Bankstown Control Plan 2023 (CBCP 2023)

The modification is subject to the provisions of the Canterbury Bankstown Development Control Plan 2023 (CBDCP 2023). The following table below provides commentary against the relevant applicable controls contained within CBDCP 2023.

Where strict compliance has not been achieved, pursuant to Section 4.15(3A)(b) of the EP&A Act 1979, flexibility is sought from Council in determining whether a reasonable alternative solution that achieves the objects is provided by the proposed development. These matters are also discussed in the table below.

CBDCP 2023	Comment
<b>5.1 Former Bankstown LGA</b>	
<b>Lot Size:</b> 450m <sup>2</sup>	<b>Site Area:</b> 575.7m <sup>2</sup>
<b>Site Cover:</b> <ul style="list-style-type: none"><li>➤ Maximum floor area allowed for a dwelling house on the land under an environmental planning instrument; and</li><li>➤ The total floor area of the secondary dwelling is no more than 60m<sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under an environmental planning instrument, that greater floor area.</li></ul>	The modification does not involve any changes to the approved site cover.
<b>Storey limit:</b> Single storey and the maximum wall height is 3m.	The secondary dwelling remains single storey in scale with a maximum wall height of 3 metres.
<b>Fill:</b>	The modification does not alter the approved levels of earthworks.



CBDP 2023	Comment
<p><b>Ground floor perimeter of secondary dwellings:</b> Maximum 1m above the ground level (existing).</p> <p><b>External:</b> must not exceed a height of 600mm above the ground level (existing) of an adjoining site.</p>	
<p><b>Side and rear setbacks:</b> 900mm - Portion of the building wall that has a wall height less than or equal to 7 metres.</p>	<p>The modification does not alter the side and rear setbacks of the secondary dwelling.</p>
<p><b>Private Open Space:</b> Must not result in the principal dwelling on the site having less than the required landscaped area and private open space.</p>	<p>The modification does not alter the approved area of POS for the dwelling.</p>
<p><b>Access to Sunlight:</b></p> <ul style="list-style-type: none"> <li>➤ Minimum three hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice to at least 1 living area.</li> <li>➤ Minimum three hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice for one living area of a dwelling on an adjoining site.</li> </ul> <p>Minimum 50% of the private open space required for the principal dwelling on the site and a minimum 50% of the private open space of a dwelling on an adjoining site must receive at least three hours of sunlight between 9.00am and 5.00pm at the equinox.</p>	<p>The modification involves changing the approved roof form from a pitched roof to a flat roof. The modification does not increase the shadow impacts on adjoining properties and when compared to the approved pitched roof the modified roof form results in a lesser impact.</p>
<p><b>Visual Privacy</b></p>	<p>The FFL of the secondary dwelling is unchanged. The modification to the windows does not result in an increased visual privacy impact and the windows will continue to be obscured by the 1.8 metre high boundary fence.</p>
<p><b>Maximum Roof Pitch:</b> 25 degrees.</p>	<p>The pitch of the roof is proposed to be modified to a flat roof. The modified roof form complies with the maximum pitch.</p>
<p><b>Car Parking:</b> Must not result in the principal dwelling having less</p>	<p>The secondary dwelling remains to not impact on the amount of off-street parking for the principal dwelling.</p>



CBDP 2023	Comment
than the required car parking spaces.	
<b>Landscape:</b> Retain and protect any significant trees on the site and adjoining site.	The modifications do not result in impacts to any existing significant vegetation.
<b>Section 13 – Ancillary Development</b>	
<b>Swimming pools and spas</b>	
Swimming pools and spas must locate behind the front building line.	The swimming pool as modified remains positioned behind the building line.
The minimum setback between the waterline of swimming pools/spas and the site boundary is 1 metre.	The swimming pool is shown to be setback 1 metre in accordance with Condition 2(a) of the development consent. The relocation of the swimming pool also remains clear of the rear boundary.

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## **9. PLANNING AGREEMENTS - Section 4.15(1)(a)(iia)**

There is no planning agreement being entered into as part of this application.

## **10. ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2021 – Section 4.15(iv)**

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. The Regulation provides standard and relevant Conditions (i.e Compliance with the BCA/NCC, Australian Standards, Section 7.11/7.12 Contributions etc...) which the Consent Authority must impose when issuing Development Consent. There are no additional considerations under the Regulations required to be considered with the subject modification.

## **11. ANY LIKELY NATURAL OR BUILT ENVIRONMENT IMPACT OR SOCIAL AND ECONOMIC IMPACT – Section 4.15(b)**

### **11.1 Natural Environment**

The development as modified is not considered to result in adverse impacts on the natural environment.

### **11.2 Built Environment**

The development as modified remains designed and sited in accordance with the relevant built form controls, compatible with the existing streetscape patterns, achieves the desired future character of the area. It is unlikely that the development as modified will consist of an adverse impact on the built environment.

### **11.3 Social Impact**

There are no adverse social impacts identified with development as modified.

### **11.4 Economic Impact**

No adverse negative economic impacts are likely to result from the development.

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## 12. SITE SUITABILITY - Section 4.15(c)

The subject site is appropriately zoned for the modified development and the development remains considered to satisfy the relevant development standards and controls. The modified development neither is considered to result in adverse material, environmental, social or economic impacts. Therefore, it is considered that the development is suitable for the site.

## 13. SUBMISSIONS - Section 4.15(d)

Any submissions received as a result on notification of the modification will be considered by the consent authority.

## 14. PUBLIC INTEREST - Section 4.15(e)

The public interest is best serviced by the consistent application of the relevant statutory requirements which ensures the consent authority that any adverse effects arising from development are minimised. Having regard to the proposed developments performance against the applicable statutory provisions and policies, the proposal is not considered to raise any issues that would be contrary to the public interest.

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## 15. CONCLUSION

After consideration of the development against Section's 4.55 and 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory provisions. On balance, the proposed modification is considered suitable for the site and not contrary to the public interest.

The modified development is considered to be reasonable and appropriate for the site and within its context. The subject site is appropriately zoned for the development, and the development as modified is considered to satisfy the relevant built form development standards and controls. The development as modified neither is considered to result in adverse material, environmental, social or economic impacts.

On balance, the proposal is considered suitable for the site and not contrary to the public interest and therefore, it is recommended that Council as the consent authority pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to modify Development Consent No. DA-329/2024 for the demolition, construction of a detached secondary dwelling and in-ground swimming pool and new landscaping issued on 22 August 2024 on land at 61 Batt Street, Sefton.

**Statement prepared by Polaris Planning and Development.**



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