

STATEMENT OF ENVIRONMENTAL EFFECTS

Amending Development Application

**Alterations and additions to approved
shop top housing development
pursuant to SEPP (Housing) 2021**

221-235, 241-247A Homer Street &
208 Wardell Road, Earlwood

7 November 2024

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1.0 INTRODUCTION and SUMMARY

This statement has been prepared for *Loucas Architects* as part of the supporting documentation for a development application in relation to 221-235 and 247-247A Homer Street and 208 Wardell Road, Earlwood.

The development proposal is an amending development application to the approved *shop top housing* development under DA-779/2020. The original application was for:

‘Demolition of existing structures and construction of a five storey shop top housing development with shops at ground floor, residential units at upper levels and two levels of basement carparking and subdivision of the site into two lots to dedicate land at the rear of the site to form an access laneway.’

The original application was approved on 19 April 2023 by the Canterbury Bankstown Local Planning Panel.

The amendments proposed to the approved development are described as:

- A two storey addition above the approved built form containing an additional 22 x residential apartments, including in-fill affordable units pursuant to Part 2 – Division 1 of *SEPP (Housing) 2021 Chapter 2*.

The amended development provides a total of 1,536.6m² of gross floor area (16 x units) as in-fill affordable housing being 15% of the total floor area and therefore benefits from bonuses to maximum building height for the development pursuant to Clause 18 of the SEPP (Housing) 2021.

The proposed built form presents a 5-7 storey development, with the upper-most level concentrated towards the Homer Street frontage of the site, at the southern portion of the approved building footprint.

- Minor alterations to the approved residential and commercial waste storage areas at the north-eastern corner of the approved Basement Level 1 and north-western portion of the ground floor level within the approved loading dock.
- Amendment to the approved Basement 2 to create a new ramp to Basement Level 3 at the north-west corner of the basement levels and services (service rooms and water pump room) adjoining the basement ramp.
- Addition of Basement 3 that includes 46 residential car parking spaces, 16 bicycle spaces, storage compartments and residential bin room containing 6 x 660l bins.

The proposed amending development application – alterations and additions to the approved building also results in a change to the development description,

with additional building density proposed pursuant to *SEPP (Housing) 2021* and the dedication of units within the building as in-fill affordable housing.

This development application is described as amendments to the approved development consent DA-779/2020. The application is not submitted as a Section 4.55 modification application, but rather seeks alterations and additions to the approved development and is accompanied by an assessment of the built form proposed under this application in its totality, including an assessment of the entire building form where required.

An assessment of this application is undertaken throughout this statement in accordance with *Gordon & Valich Pty Ltd v City of Sydney Council [2007] NSWLEC 780* in that whilst alterations and additions to the original consent plans is not technically defined as “development”, the proposed built form and use of land envisaged under this development application is in fact “development”.

Gordon & Valich Pty Ltd v City of Sydney Council [2007] NSWLEC 780 provides the following with regard to the issue of a consent for such an application:

16 “Development” is a defined term: see s 4(1). It includes the use of land, the subdivision of land, the erection of a building, the carrying out of a work, and the demolition of a building or work. A development consent may be granted authorizing the carrying out of development of one or more of these types. A development consent, however, is not itself development. The Environmental Planning and Assessment Act does not permit the lodging of a development application to amend a development consent; rather only to carry out development of one or more of the types falling within the definition of development (see s 78A(2)).

17 Of course, if development consent is granted for the carrying out of development as defined, a condition of consent for that development may be able to be imposed requiring the modification or surrender of an earlier development consent: see s80(1)(b) and (5). It may also be that even without a formal condition requiring modification, the grant of and the carrying out in accordance with another development consent may have such a consequence. In either case, this might be a consequence but it would not be the purpose of the development consent.

18 In this case, the application clearly does propose the carrying out of development notwithstanding the description of the development as being the amendment of the existing development consent. It proposes the carrying out of works, the erection of a building, and the subsequent use of land. If development consent were to be granted for the carrying out of these various types of development, a condition of consent could be imposed under s 80A(1) which might modify any earlier development consent, including the consent in question in this case. However, as I have noted, this would be the consequence but not the direct purpose of the development application.

In accordance with the above it is acknowledged that the assessment and subsequent approval of this application will impact the current approved

development for the site DA-779/2020. Pursuant to *AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces [2021] NSWCA 112* the modification or surrender of an original consent where required can be addressed by a condition of consent prior to the issue of the construction certificate to address the totality of the approved development of the site:

232 [T]he grant of another development consent may have the consequence of effecting a modification of the original development consent in two ways. First, the second development consent may be granted subject to a condition requiring the modification or surrender of the original development consent (under originally s 91(7) and later s 80(1)(b) and (5) and currently s 4.17(5) of the EPA Act). Second, even without a condition requiring modification, the terms in which the second development consent is granted and the carrying out of development in accordance with the second development consent may have the consequence of effecting a variation of the original consent: Gordon & Valich Pty Ltd v City of Sydney Council at [17]; Auburn Municipal Council v Szabo (1971) 67 LGRA 427 at 432-433.

233 There is nothing to prevent a person having two development consents to carry out development on the same land... The two development consents applying to development on the same land need to be read together to ascertain the development that is authorised to be carried out on the land: Pilkington v Secretary of State for the Environment (1973) 26 P&CR 508 at 512-513; [1974] 1 All ER 283 at 287.

The subject site is zoned B2 – Local Centre under the *Canterbury Bankstown Local Environmental Plan 2023*, and alterations and additions to the approved *shop top housing* development are permissible with development consent in the zone. The amended development is subject to bonuses to maximum permitted height pursuant to Clause 18 of the *SEPP (Housing) 2021* proportional to the provision of floor area dedicated to affordable housing within the development. The definition of *affordable housing* and compliance with the *SEPP (Housing) 2021* are addressed at Section 4.5 of this Statement.

The subject site is located on the northern side of Homer Street at the intersection of Homer Street and Wardell Road within the Earlwood Town Centre. Surrounding development within the town centre is characterized by a range of existing 1 – 2 storey commercial premises and new shop top housing developments fronting Homer Street, including a recently constructed 5 storey shop top housing development located at 205 Homer Street, Earlwood to the east of the subject site. The local roads running north and south from Homer Street are defined by low density residential housing.

The subject site is a corner allotment with a consolidated frontage of 81.39m to Homer Street, a secondary frontage of 73.46m to Wardell Road and a resulting area of 3,645m².

This Statement of Environmental Effects should be read in conjunction with the following plans / documents:

- *Architectural Plans numbered A-005A-H, A-006 – A-007 – A-017, A-020-A-023, A-030 – A-031, A-040 – A-041 and A-050 Issue A, F, G, H, dated 6 October 2024 prepared by Loucas Architects;*
- *Access Report dated 8 October 2024 prepared by Accessible Building Solutions;*
- *Landscape Plan dated 4 October 2024 prepared by Isthmus Landscape Design;*
- *Traffic and Parking Impact Assessment, Carpark Certification and Swept Path Diagrams dated October 2024 prepared by Motion Traffic Engineers;*
- *BASIX Certificate*

In this report, the proposal is assessed in relation to the relevant planning controls, being:

- *State Environmental Planning Policy (Sustainable Buildings) 2022,*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021,*
- *State Environmental Planning Policy (Resilience and Hazards) 2021,*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021,*
- *State Environmental Planning Policy (Housing) 2021*
- *Canterbury Bankstown Local Environmental Plan 2023,*
- *Canterbury Bankstown Development Control Plan 2023, and*
- *Section 4.15(1) Environmental Planning and Assessment Act 1979.*

2.0 SITE and CONTEXT

2.1 Locality Description

The subject site is located on the northern side of Homer Street at the intersection of Homer Street and Wardell Road within the Earlwood Town Centre. Surrounding development within the town centre is characterized by a range of existing 1 – 2 storey commercial premises and new shop top housing developments fronting Homer Street, including a recently constructed 5 storey shop top housing development located at 205 Homer Street, Earlwood to the east of the subject site. The local roads running north and south from Homer Street are defined by low density residential housing.

The development opposite the subject site on the southern side of Wardell Road is low density residential housing noting the subject site is at the eastern portion of the local centre zone.

The subject site is well-served by public transport – bus routes 412, 423 and 423X run along Homer Street providing frequent services to the Sydney CBD and Kingsgrove. Further, Bardwell Park railway station is located 700m south west of the subject site, approximately 850m walking distance from the site.

The location of the subject site and land uses within the locality are shown in the following aerial photograph.



Source: SIX Maps Viewer

The context of the subject site and general setting is shown in the following photographs.

Photograph 1 depicts the streetscape of Homer Street looking east from the subject site noting the existing commercial buildings and new 5 storey Shop Top Housing development.



Source: Chapman Planning

Photograph 2 depicts the Wardell Road streetscape north of the site.



Source: Chapman Planning

2.2 Site Description

The subject site known as 221 – 235, 241-247A Homer Street and 208 Wardell Road, Earwood. The subject site consists of 4 x individual allotments of land which are described as follows:

- 221 – 225 Homer Street, Earwood, legally identified as Lot 101 DP 747279. This site accommodates 3 x commercial buildings including office space, a gymnasium and a restaurant with associated parking area.
- 241 – 247A Homer Street, Earwood, legally identified as Lot 10 DP 10802 and Lot 1 DP 123981. This site operated as a service station

from 1953 – 2002 and has since been remediated. This site currently vacant and contains no significant vegetation.

- 208 Wardell Road, Earlwood, legally identified as Lot 12 DP 10802. This site contains a single storey residential dwelling and associated carport.

The subject site is a corner allotment, featuring a frontage of 81.39m to Homer Street, a secondary frontage of 73.46m to Wardell Road and a resulting area of 3,645m².

The site falls from the Homer Street boundary (RL45.88 – RL44.79) to the northern boundary of 208 Wardell Road (RL41.66).

The aerial photo below shows the site and its relationship to adjoining properties.



Source: *SIX Maps Viewer*

The following photographs depict the buildings on the subject site.

Photograph 3 depicts the development on the site as viewed from the intersection of Wardell Road and Homer Street.



Source: Chapman Planning

Photograph 4 depicts the development on the site as viewed from Wardell Road.



Source: Chapman Planning

3.0 DEVELOPMENT PROPOSAL

The development proposal is an amending development application to the approved *shop top housing* development under DA-779/2020. The original application was for:

‘Demolition of existing structures and construction of a five storey shop top housing development with shops at ground floor, residential units at upper levels and two levels of basement carparking and subdivision of the site into two lots to dedicate land at the rear of the site to form an access laneway.’

The original application was approved on 19 April 2023 by the Canterbury Bankstown Local Planning Panel.

The alterations and additions proposed to the approved development are described as follows:

Basement Level 2

Amendment to Basement 2 plan to create a new ramp at Basement Level 3 at the north-west corner of the basement levels and services (services and water pump room) adjoining the basement ramp.

Basement Level 3

Addition of Basement Plan 3 that includes 46 residential car parking spaces, 16 bicycle spaces, storage compartments and residential bin room containing 6 x 660l bins.

Affordable units, Fifth and Sixth Floor Addition

A two storey addition (5th and 6th floor addition) above the approved built form containing an additional 22 x residential apartments, including in-fill affordable units pursuant to Part 2 – Division 1 of *SEPP (Housing) 2021 Chapter 2*.

The amended development provides a total of 1,536.6m² of gross floor area (16 x units) as in-fill affordable housing being 15% of the total floor area and therefore benefits from bonuses to maximum building height for the development pursuant to Clause 18 of the SEPP (Housing) 2021.

The approved units at Levels 1-4 of the development, in addition to units at the proposed Level 5 are proposed to be dedicated as affordable rental units as depicted in the below area table:

AFFORDABLE SCHEME		
ADDITIONAL GFA (DA AMENDMENTS)		1994 m ²
AFFORDABLE UNITS	UNIT NO.	AREA
GRD	LOBBY C	44 m ²
L1	C1.01, C1.02, C1.03, C1.04	416.6 m ²
L2	C2.01, C2.02, C2.03	269 m ²
L3	C3.01, C3.02, C3.03	269 m ²
L4	C4.01, C4.02, C4.03	269 m ²
L5	C5.01, C5.02, C5.03	269 m ²
PROPOSED AFF. UNITS	16 UNITS	1536.6 m ²

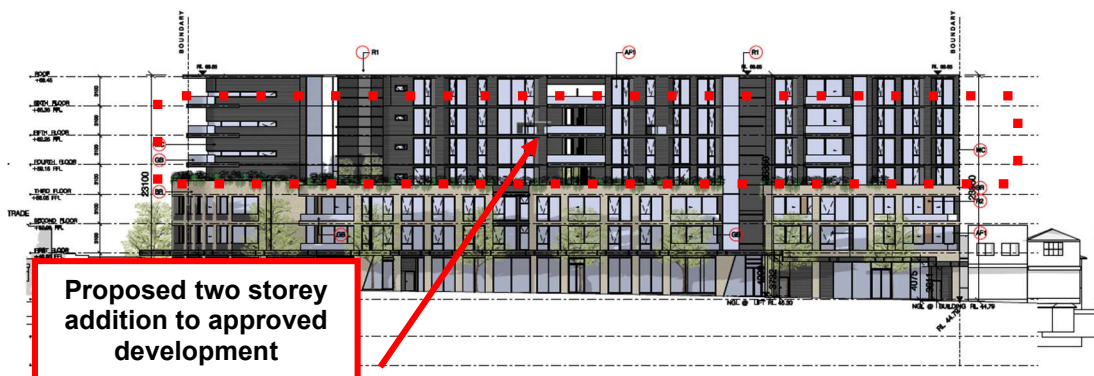
The proposed new levels are described as follows:

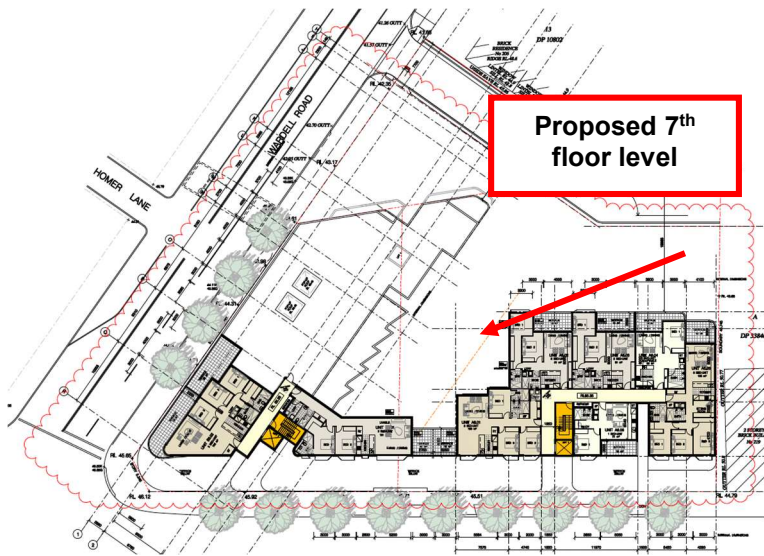
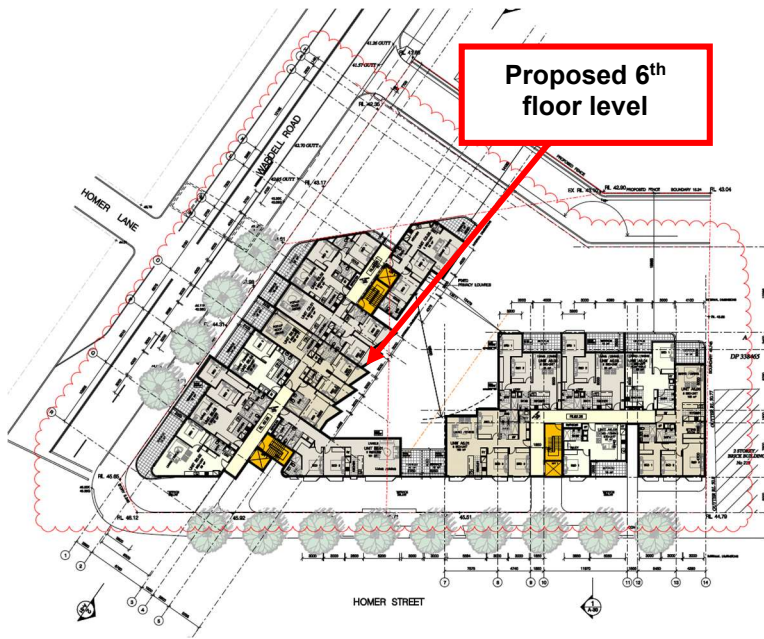
- **Fifth floor:** The proposed 5th floor level contains 4 x 1 bedroom units sized 50m²-60m², 7 x 2 bedroom units sized 81m²-101m², and 3 x 3 bedroom units sized 105m²-108m² each designed with an open plan kitchen, living and dining area with direct access to external private open space – balcony sized 10m²-24m².
- **Sixth floor:** The proposed 6th floor level contains 2 x 1 bedroom units sized 51m²-60m², 3 x 2 bedroom units sized 75m²-101m², and 3 x 3 bedroom units sized 105m²-108m² each designed with an open plan kitchen, living and dining area with direct access to external private open space – balcony sized 10m²-26m².

Building Design / Roof Form

The proposed two storey addition has been designed to be consistent with the built form and materiality of the approved development – recessed upper levels with dark external finishes above the 3 storey podium at the street level. The proposed additional levels have been designed to sit within the footprint of the approved building below, with a flat roof form and contemporary parapet designed to sit within the height standard that applies to the site pursuant to the *SEPP (Housing) 2021*.

Architectural plans prepared by *Loucas Architects* are submitted with the development applications. The plan extracts below depict the proposed alterations and additions to the approved development:





4.0 PLANNING CONTROLS

4.1 SEPP (Sustainable Buildings) 2022

An amended BASIX certificate has been prepared for the amended development addressing the proposed additional dwellings at the upper most levels. The proposal complies with the State Government's water and energy reduction targets.

4.2 SEPP (Resilience and Hazards) 2021

Chapter 4 of this SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated and if contaminated it is satisfied that the land is suitable for the purpose.

The approval of the original development application DA-779/2020 for a shop top housing development confirms that Council can be satisfied that Chapter 4 of the SEPP is not triggered by the proposal, and the land is suitable for residential development. This amending DA does not propose any additional excavation or disturbance of soil beyond that originally approved.

4.3 SEPP (Biodiversity and Conservation) 2021

Chapter 2 of this SEPP (Biodiversity and Conservation) 2021 replaces the repealed provisions of Clause 5.9 of the standard instrument LEP relating to the preservation of trees and vegetation.

The aims of this policy are to protect the biodiversity values of trees and other vegetation, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The originally approved development application included the removal of existing trees on the subject site. The amended development does not seek any further tree removal beyond that originally approved.

4.4 SEPP (Transport and Infrastructure) 2021

Division 15 of State Environmental Planning Policy (Transport and Infrastructure) 2021 applies to development located adjacent to classified roads. The subject site is located on Homer Street being a *secondary road* pursuant to the *RMS Schedule of Classified Roads* and so is subject to the provisions of Clause 2.120 of the SEPP.

Clause 2.120 of the SEPP states:

“(1) This section applies to development for any of the following purposes that is 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—

- (a) residential accommodation,
- (b) a place of public worship,
- (c) a hospital,
- (d) an educational establishment or centre-based child care facility.

(2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

(3A) Subsection (3) does not apply to a building to which [State Environmental Planning Policy \(Housing\) 2021](#), Chapter 3, Part 7 applies.

(4) In this section, **freeway**, **tollway** and **transitway** have the same meanings as they have in the [Roads Act 1993](#).”

The original development application was supported by an acoustic assessment including measurement of external noise levels at the subject site. The recommendations and construction specifications of the previous acoustic assessment for the site are to be applied to the proposed additional units, to ensure the dwellings meet the noise criteria contained in clause 2.120(3) of the SEPP. The noise attenuation measures and design recommendations in the report can be addressed by condition of consent.

4.5 SEPP (Housing) 2021

The proposal seeks the addition of dwellings dedicated to *in-fill affordable housing* within the approved *shop top housing* development pursuant to Chapter 2, Part 2 – Division 1, Clause 15C of *SEPP (Housing) 2021*.

This Division applies to the proposal as *shop top housing* is permissible with development consent on the subject site under the *Canterbury Bankstown LEP 2023*, and greater than 10% of the gross floor area of the development is to be used for the purposes of affordable housing.

Finally, the subject site is within an *accessible area* being within 50-180m walking distance of bus stops 220624 and 220654 (Our Lady of Lourdes Church) and stops 2206101 and 2206111 (Homer St at Minnamora Avenue), and as such is well-served by public transport – bus routes 412, 423 and 423X

run along Homer Street providing frequent services to the Sydney CBD and Kingsgrove. The nearby stops are regularly serviced between 6am-9pm Monday-Friday and 8am-6pm Saturday-Sunday.

Section 1.4 of the Environmental Planning & Assessment Act 1979 defines *affordable housing* as:

affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

Clause 13 of the *SEPP (Housing) 2021* defines very low income, low income, and moderate income households as follows:

(1) *In this Policy, a household is taken to be a very low income household, low income household or moderate income household if—*

(a) *the household—*

(i) *has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW—*

(A) *very low income household—less than 50%,*

(B) *low income household—50–less than 80%,*

(C) *moderate income household—80–120%, and*

(ii) *pays no more than 30% of the gross income in rent, or*

(b) *the household—*

(i) *is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and*

(ii) *pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme.*

The dwellings proposed to be dedicated to affordable housing will be managed by a community housing provider and provided to the above household demographics, with the ongoing management of the dwellings able to be addressed by a condition of consent.

The relevant matters contained within Part 2, Division 1 of the *SEPP (Housing) 2021* are addressed in the table below:

SEPP (Housing) 2021 – Chapter 2 Affordable Housing	
<i>Part 2 Development for affordable housing – Division 1 In-fill affordable housing</i>	
Clause 15C Development to which division applies	Assessment/Comment
(1) <i>This division applies to development that includes residential development if—</i>	
(a) <i>the development is permitted with consent under Chapter 3, Part 4 or</i>	Complies – The site is zoned B2 Local Centre zone, and the development

<p><i>another environmental planning instrument, and</i></p> <p><i>(b) the affordable housing component is at least 10%, and</i></p> <p><i>(c) all or part of the development is carried out—</i></p> <p><i>(i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or</i></p> <p><i>(ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.</i></p> <p><i>(2) Affordable housing provided as part of development because of a requirement under another environmental planning instrument or a planning agreement within the meaning of the Act, Division 7.1 is not counted towards the affordable housing component under this division.</i></p> <p><i>(3) In this section—</i> relevant zone means the following— <i>(a) Zone E1 Local Centre,</i> <i>(b) Zone MU1 Mixed Use,</i> <i>(c) Zone B1 Neighbourhood Centre,</i> <i>(d) Zone B2 Local Centre,</i> <i>(e) Zone B4 Mixed Use.</i></p>	<p>includes residential development – <i>shop top housing</i> is permissible in the zone and as such this Part of the SEPP applies.</p> <p>Complies – 1,536.6m² GFA – 15% of the development is dedicated to affordable housing.</p> <p>Complies – The site is within an accessible area – opposite bus stop/route 423 and 423X providing services between 6am-9pm Monday-Friday and 8am-6pm Saturday-Sunday.</p> <p>Not Applicable</p> <p>Noted</p>
<p>Clause 16 Affordable housing requirements for additional floor space ratio</p>	
<p><i>(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).</i></p> <p><i>(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—</i></p> <p><i>affordable housing component = $\frac{\text{additional floor space ratio}}{\text{(as a percentage)}} + 2$</i></p>	<p>Not Applicable – There is no applicable FSR controls for the subject site pursuant to the CBLEP 2023.</p>

<p>(3) <i>If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).</i></p> <p>Example— <i>Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.</i></p> <p>(4) <i>This section does not apply to development on land for which there is no maximum permissible floor space ratio.</i></p>	
Clause 18 Affordable housing requirements for additional building height	
<p>(1) <i>This section applies to development that includes residential development to which this division applies if the development—</i> <i>(a) includes residential flat buildings or shop top housing, and</i> <i>(b) does not use the additional floor space ratio permitted under section 16.</i></p> <p>(2) <i>The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).</i></p> <p>(3) <i>The minimum affordable housing component, which must be at least 10%, is calculated as follows—</i></p> $\text{affordable housing component} = \frac{\text{additional building height}}{(\text{as a percentage})} \div 2$	<p>Complies – This section of the SEPP applies to the proposal as it involves residential dwellings within a <i>shop top housing</i> development to be used for affordable housing. As the CBLEP 2023 does not provide an FSR control for the site, an additional FSR bonus does not apply to the proposal and a height bonus is provided.</p> <p>Complies – Maximum permissible building height is 18m and 8.5m pursuant to Clause 4.3 CBLEP 2023.</p> <p>Therefore, an additional building height of 30% is provided to the development, resulting in maximum permitted heights of 23.4m and 11.05m on the site.</p> <p>The development has a maximum height of 23.4m on the portion of the site containing the additional storeys proposed and complies.</p>
Clause 19 Non-discretionary development standards – the Act, s4.15	
<p>(1) <i>The object of this section is to identify development standards for particular matters</i></p>	

<p><i>relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i></p> <p>Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.</p>	
<p><i>(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—</i></p> <p><i>(a) a minimum site area of 450m²,</i></p>	<p>Complies – 3,645m²</p>
<p><i>(b) a minimum landscaped area that is the lesser of—</i></p> <p style="padding-left: 40px;"><i>(i) 35m² per dwelling, or</i> <i>(ii) 30% of the site area,</i></p> <p><i>(c) a deep soil zone on at least 15% of the site area, where—</i></p> <p style="padding-left: 40px;"><i>(i) each deep soil zone has minimum dimensions of 3m, and</i> <i>(ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site</i></p>	<p>The amended development contains a total of 85 x dwellings resulting in a landscaped area standard 30% of the site area (1093.5m²), and a deep soil requirement of 15% of the site.</p> <p>Pursuant to Clause 19(3) of the SEPP, the deep soil provisions do not apply to development to which Chapter 4 – Design of Residential Apartment Development applies. The proposal does not alter the approved building footprint under DA-779/2024 and as such does not comply with the landscaped/deep soil area non-discretionary standards. This variation is consistent with the provisions of Part 3E of the ADG which confirms that achieving deep soil landscaping is not possible where there is 100% site coverage – non-residential uses at ground such as that approved for the site.</p>
<p><i>(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,</i></p>	<p>Pursuant to Clause 19(3) of the SEPP, the solar access provisions do not apply to development to which Chapter 4 – Design of Residential Apartment Development applies. The amended development in its totality provides 65/85 units – 76.4% achieving a minimum of 2 hours solar access in midwinter to living areas and private open space meeting the solar access requirements of the ADG.</p>
<p><i>(e) the following number of parking spaces for dwellings used for affordable housing—</i></p> <p style="padding-left: 40px;"><i>(i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,</i></p>	<p>Complies – 16 x affordable units being 2 bedroom units are provided, requiring 8 x parking spaces.</p>

<p>(ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,</p>	
<p>(f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,</p>	<p>Complies – 69 x non-affordable units – being 20 x one bedroom units, 27 x two bedroom units, and 22 x three bedroom units requiring 70 x parking spaces.</p> <p>There are a total of 104 residential parking spaces meeting the parking requirements.</p>
<p>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,</p>	<p>Complies – the proposed additional dwellings meet minimum unit size for 1, 2 and 3 bedroom dwellings</p>
<p>(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,</p>	<p>Not Applicable</p>
<p>(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m², (ii) for each dwelling containing 2 bedrooms—90m², (iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.</p>	<p>Not Applicable</p>
<p>(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</p>	<p>Not Applicable</p>
<p>Clause 20 Design requirements</p>	
<p>(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.</p>	<p>Not Applicable</p>
<p>(2) Subsection (1) does not apply to development to which Chapter 4 applies.</p>	<p>Not Applicable</p>
<p>(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—</p>	<p>Complies – the development is compatible with the desired future character as established by the planning controls with the additional building height allocated to affordable housing suitable for a corner site, with</p>

(a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	the resultant built form designed to step down at the north-west corner adjoining the R2 Low Density Residential zone in accordance with the approved building under DA-779/2020.
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Chapter 4 of the *SEPP (Housing) 2021* applies to the development application being for alterations and additions to an approved *shop top housing* development of more than storeys and containing >4 dwellings.

Clause 147(1) of the SEPP states that the design of a residential apartment building must be in accordance with Schedule 9 of the *SEPP (Housing) 2021 - Design Quality Principles*.

The following table assesses the development application in accordance with these principles.

Principle	Comment
Context and Neighbourhood Character	<p>The two storey addition proposed to the approved building has been designed in accordance with the anticipated building height for affordable housing pursuant to clause 18 of the SEPP (Housing) 2021 which provides a height bonus to the development.</p> <p>The additional building height allocated to affordable housing is suitable for a corner site in the B2 – Local Centre Zone, with the resultant built form designed to step down at the north-west corner to achieve adequate separation and transition to the adjoining R2 Low Density Residential zone consistent with the approved building under DA-779/2020</p> <p>The additional residential dwellings proposed, including affordable rental housing units, adaptable and livable units contribute to the provision of affordable and diverse residential accommodation within the locality. The additional residential density is suitable within the context of the site being within close proximity to well-serviced bus stops along Homer Street.</p>
Built Form and Scale	<p>The development proposal has been designed in accordance with the intent of the building height provisions for infill affordable housing development.</p> <p>The development provides an additional two storeys above the approved built form, concentrated at the southern portion of the site – Homer Street frontage and street corner at the intersection of Homer Street and Wardell Road.</p> <p>The additional built form presents an appropriate design solution for the site, with the additional storeys recessed</p>

	<p>from the 3 storey podium of the approved development, and designed in a slender footprint that sits above the approved building and is concentrated towards Homer Street which serves to mitigate its visual impact upon the residential zoned land north of the site along Wardell Road.</p>
Density	<p>The density of the building is compatible with the desired future character of the locality presented in the Canterbury Bankstown LEP and DCP, notwithstanding the additional density – building height provided to the proposal under the provisions of the SEPP (Housing) 2021. The proposed dwellings, including affordable rental dwellings provide housing in the catchment of public open space, public transport, and the Earlwood commercial centre.</p> <p>The additional building height is well-articulated, being contained within a slender building footprint running east-west across the approved building below that is concentrated towards Homer Street. The additional density is acceptable to Homer Street and a corner development ensuring separation and transition in built form is achieved to the R2 – Low Density Residential Zone adjoining the northern boundary.</p>
Sustainability	<p>The residential units have been designed to maximise residential amenity for the subject site with 65/85 units – 76.4% of the units to receive 3 hours of sunlight to living rooms in midwinter, with 51/85 units – 60% being cross-ventilated, thus reducing reliance on heating and cooling systems.</p> <p>The amenity of the units is attributed to the orientation of the subject site and the design of each building with a central circulation core and all units designed with multiple aspects.</p>
Landscape	<p>The proposal does not alter the approved building footprint under DA-79/2024 and as such the development remains consistent with the provisions of Part 3E of the ADG which confirms that achieving deep soil landscaping is not possible where there is 100% site coverage – non-residential uses at ground such as that approved for the site.</p> <p>The approved building includes landscape works at communal podium level is suitable for a shop top housing development within the local centre zone. The original built form incorporated landscape plantings and a variety of spaces including seating, lawn, children's play and covering barbecue facilities within the communal open space at the podium level.</p>

	The ground floor has been designed with a nil setback to provide an active street frontage to Homer Street and Wardell Road.
Amenity	<p>The units have been designed in accordance with the Apartment Design Guide ensuring the dwellings are of suitable dimension and designed to maximise solar access and ventilation with 65 out of 85 units – 76.4% of units achieving 3 hours of sunlight to living rooms and private open space and with 51 out of 85 units – 60% being cross-ventilated.</p> <p>The design of the residential flat building development maximizes external glazing for cross ventilation to the units and provides opportunity for different views from dual aspect units.</p> <p>The development proposal includes various areas of communal open space providing residents additional access to sunlight and recreational areas at different times of the year.</p>
Safety	The proposed new dwellings include balconies and outdoor terrace areas which promote casual surveillance of both the primary street frontage and communal areas of the site.
Housing Diversity and Social Interaction	<p>The alterations and additions to the approved development incorporating affordable rental units provides affordable housing to meet demand and addresses housing affordability with the provision of 1, 2 and 3 bedroom units (including adaptable and livable units) within close proximity to public transport.</p> <p>The amended development contributes to housing diversity and affordability within the locality.</p>
Aesthetics	<p>The proposal contributes to the desired future character of the Earlwood Local Centre contained in the CBDP 2023. The additional storeys proposed above the approved building is well articulated and has been designed in accordance with the site context, being concentrated towards the Homer Street frontage in a slender footprint presenting an appropriate built form transition from the surrounding residential zones to the subject site.</p> <p>The development proposal has been designed with the proposed two storey addition designed to be consistent with the built form and materiality of the approved development – recessed upper levels with dark external finishes above the 3 storey podium at the street level.</p>

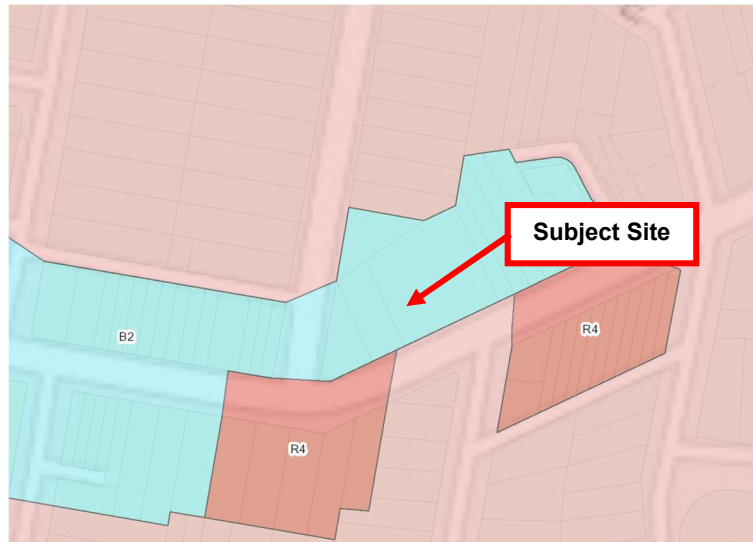
In accordance with Clause 147(1)(b) of the SEPP, the Apartment Design Guide is to be considered by the consent authority, and the following table assesses the development in accordance with the relevant controls contained in the ADG.

Apartment Design Guide	Design Criteria	Comment
Part 3 – Siting the Development		
Open Space (% & m ²) Communal	25% of the site area to be communal open space C.O.S to receive 50% Direct sunlight, minimum 2 hours	Yes – No change to approved C.O.S area of 934m ² – 25.6%
Deep Soil Zone (% & m ²)	15% of site area to contain deep soil landscaping	No change to approved development deep soil area
Visual Privacy	Setback to boundary <u>Up to 12m / 1 – 4 storeys:</u> <i>Non-Habitable:</i> 3m <i>Habitable:</i> 6m <u>Up to 25m / 5-8 storeys:</u> <i>Non-Habitable:</i> 4.5m <i>Habitable:</i> 9m + 3m to lower Density zone	Addition 5 th and 6 th storey Complies Minimum 14.13m – 19.965m setback to northern boundary
Vehicle + Pedestrian Access	Vehicle + Pedestrian access to be separated to achieve safety – minimise conflicts	No change to approved vehicular access
Bicycle and Car Parking	Car Parking – Proximity to public transport	Note – The development meets the parking requirements of clause 19(2)(e) and (f) of SEPP (Housing) 2021
Design of Building		
Solar and Daylight Access	70% of units to receive 2 hours solar access in midwinter between 9am-3pm No more than 15% of units to receive no solar access.	Complies – 65/85 Units – 76.4% achieve solar access. Complies – 8/85 Units – 9.4% do not receive required solar access.
Natural Ventilation	60% of units to be naturally ventilated	Complies – 51/485 Units – 60% of units are naturally ventilated
Ceiling Height (m) Residential Habitable	2.7m	Complies
Floor to Floor	3.1m	

Apartment Size and Layout (m) (Open plan max depth from window)	Maximum depth of open plan units from a window is 8m	Complies Max. window depth is <8m from a kitchen
Standard Apartment Sizes (m ²)	1 bedroom: 50m ² 2 Bedroom: 70m ² + 5m ² additional bathroom 3 Bedroom: 90m ² + 5m ² additional bathroom	Complies All units meet minimum apartment sizes.
Bedrooms	9m ² 10m ² (Master bedroom)	Complies
Living Rooms	4m width for 2/3 bed	Complies
Private Open Space and Balconies	Minimum balcony size: 1 Bedroom: 8m ² & 2m depth 2 Bedroom: 10m ² & 2m depth 3 Bedroom: 12m ² & 2m depth	Complies All units meet minimum balcony sizes.
Storage (m ³)	Storage 1 Bedroom: 6m ³ 2 Bedroom: 8m ³ 3 Bedroom: 10m ³	Complies Unit storage provided to all additional dwellings.
Universal Design	20% of units to meet Silver Level Livable housing guidelines	Complies 21 x livable units – 24.7%

4.6 Canterbury Bankstown Local Environmental Plan 2023

The subject site is B2 – Local Centres under the CBLEP 2023 as shown on the zoning extract below. The proposal is for an amending development application – alterations and additions to an approved *shop top housing* development which is a permissible use in the zone.



Source: CBLEP 2023

The relevant objectives of the B2 – Local Centre Zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for certain residential uses that are compatible with the mix of uses in local centres.*
- *To promote a high standard of urban design and local amenity.*

The amended development – alterations and additions to the approved shop top housing to incorporate infill affordable units pursuant to SEPP (Housing) 2021 continues to achieve the objectives of the B2 Local Centre zone.

The approved large-scale retail areas and employment opportunity presented by the proposal are retained. The additional residential density – affordable units are within close proximity to public transport and are well-served by nearby bus stops to encourage walking and cycling, and contribute to housing diversity and choice in the locality.

The additional built form – two storey addition is of a high quality design and does not result in any significant adverse amenity impacts beyond that of the originally approved development. The additional building height can be comfortably absorbed on the approved development.

Clause 4.3 Height of buildings of the LEP contains a building height control of 8.5m and 18m for the subject site with reference to the Height of Buildings Map. The proposal has a maximum height of 23.4m measured to the top of roof form of the proposed additional storeys. The maximum permitted building height pursuant to Clause 18(3) of the *SEPP (Housing) 2021* provides a height bonus for affordable housing development equivalent to the floor area provided for affordable rental housing. As such the maximum permitted height is an additional 30% beyond the LEP standard being 23.4m and the proposal complies.

Clause 4.4 Floor space ratio of the LEP does not contain a Floor Space Ratio (FSR) control for the subject site with reference to the FSR Map.

Clause 5.10 Heritage conservation of the LEP does not apply to the development proposal noting the subject site does not contain a heritage item and is not located within a heritage conservation area or within the vicinity of a heritage item.

Clause 5.21 Flood planning does not apply to the proposal noting the site is not identified on Council's Flood Prone Land map.

Clause 6.1 Acid Sulfate Soils applies to the development proposal noting part of the subject site contains class 5 acid sulfate soils. The proposal does not involve additional excavation or disturbance of soils beyond that originally approved.

Clause 6.2 Earthworks is not contravened by the proposal as it does not involve additional excavation or disturbance of soils beyond that originally approved.

Clause 6.3 Stormwater Management and water sensitive urban design applies to the development proposal. The proposed additions do not alter the approved building footprint and as such the approved stormwater management plans apply to the development.

Clause 6.6 Essential Services applies to the development proposal. The subject site has access to essential services and existing services and utilities will be upgraded to accommodate the new development proposal where necessary.

Clause 6.15 Design excellence applies to development comprising more than four storeys. The context and the specific design of the proposed two storey addition have been addressed previously with regard to the provisions of the ADG. The following table addresses the matters under 6.15(4).

Objective	Response
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	<p>The proposal contributes to the desired future character of the Earlwood Local Centre contained in the CBDP 2023. The additional storeys proposed above the approved building is well articulated and has been designed in accordance with the site context, being concentrated towards the Homer Street frontage in a slender footprint and suitable for a corner site achieving a transition and adequate separation to the R2 – Low Density Residential Zone adjoining to the northern boundary to ensure an appropriate built form to the surrounding residential zones to the subject site.</p> <p>The development proposal has been designed with the proposed two storey addition designed to be consistent with the built form and materiality of the approved development – recessed upper levels with dark external finishes above the 3 storey podium at the street level.</p>
(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,	The additional storeys proposed are appropriately located on the approved built form and designed to present a well-defined corner element and street-wall along Homer Street that, provides a clear transition from the primary streetscape setting of the site to the low density dwellings at the rear of the site. The resultant form will contribute positively to the quality of the public domain.
(c) whether the development detrimentally impacts on view corridors,	The proposed additional building height will not impact upon any view corridors enjoyed over the site from the surrounding locality.
<p>(d) how the development satisfactorily addresses the following matters:</p> <ul style="list-style-type: none"> • (i) heritage issues, • (ii) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, • (iii) bulk, massing and modulation of buildings, • (iv) street frontage heights, • (v) environmental impacts, including sustainable design, overshadowing, wind and reflectivity, • (vi) the achievement of the principles of ecologically sustainable development, • (vii) pedestrian, cycle, vehicular and service access, circulation and requirements, 	<p>The additions to the approved development achieve these matters as follows:</p> <ul style="list-style-type: none"> - the subject site is not located in the vicinity of heritage items. - the additional storeys are suitably located in accordance with the approved built form and provide adequate internal separation between dwellings on the site. The additional built form has been designed to retain the approved setbacks to the street and adjoining properties and presents a slender footprint above the approved building which presents an appropriate urban form and does not contribute significant additional building bulk compared to the original approval. - the resultant street frontage height is appropriate for the site – the additional storeys are contained at the recessed upper levels of the development above the 3 storey podium at the streetscape. These levels are designed with darker recessive materiality, reducing their visual prominence and bulk impacts upon the street. - The proposal incorporates sustainable design principles with respect to solar access, natural ventilation, and does not contribute significant

<ul style="list-style-type: none"> • (viii) the impact on, and any proposed improvements to, the public domain, • (ix) the integration of utilities, building services and waste management infrastructure in the site layout and building design, 	<p>adverse shadow impacts which are unanticipated within the Local Centre zone – higher density locality.</p> <ul style="list-style-type: none"> - An amended BASIX certificate supports the application confirming compliance with ESD principles - Pedestrian and vehicular access is retained as approved. - The public domain – street level interface of the development is retained as approved. - Site utilities and servicing are as approved.
(e) whether the development integrates a high quality landscape design with the built form,	No change is proposed to the approved landscape design of the site.

Clause 6.21 Restrictions on development in Zones B1, B2 and B5 requires that the ground level of development in these zones is not used for residential accommodation. The ground floor use of the approved development being commercial premises is not altered by the proposal.

4.7 Canterbury Bankstown Development Control Plan 2023

The development proposal is subject to the controls under Chapters 2-6 of the CBDCP 2023 which are addressed below. It is noted that the numerical provisions are addressed in the Development Control table at Section 5 of this Statement and residential amenity provisions such as solar access and visual and acoustic privacy are addressed in Section 6 – Environmental Assessment of this statement.

Chapter 2 – Site Considerations

2.1 Site Analysis

The application is supported by a site analysis plan as required by this section of the DCP. As detailed within the preceding ADG assessment and submitted Design Verification Statement, the site analysis principles are satisfied by the development.

Chapter 3 – General Requirements

3.2 Parking

The amended development application – additional 22 x dwellings proposed generates a parking demand of 70 x spaces pursuant to the SEPP (Housing) 2021, with 16 x dwellings proposed as affordable rental units. The additional parking demand generated by the proposal is accommodated within the approved basement carpark levels which provides a total of 104 residential parking spaces.

3.3 Waste Management

The waste generation of the proposed two storey addition and increased residential density can be accommodated within the approved waste storage areas at the basement and ground floor levels.

3.4 Sustainable Development

This section of the DCP provides a framework for ecologically sustainable development. The development application is supported by an updated BASIX certificate indicating the development complies with the State Government's water and energy reduction targets.

Chapter 5 – Residential Accommodation

Section 6 – Shop Top Housing

The relevant provisions of the DCP which apply to the amended development application are addressed in turn below, with numerical provisions addressed at the control table within Section 5.0 of this statement.

6.2.2 Landscaping – No change is proposed to the approved landscaped area within the development.

6.2.4 Layout and orientation – The layout of the proposed two storey addition maximises solar access and natural ventilation to the additional dwellings proposed. The concentration of the built form in a slender footprint above the approved development is appropriately located on the site.

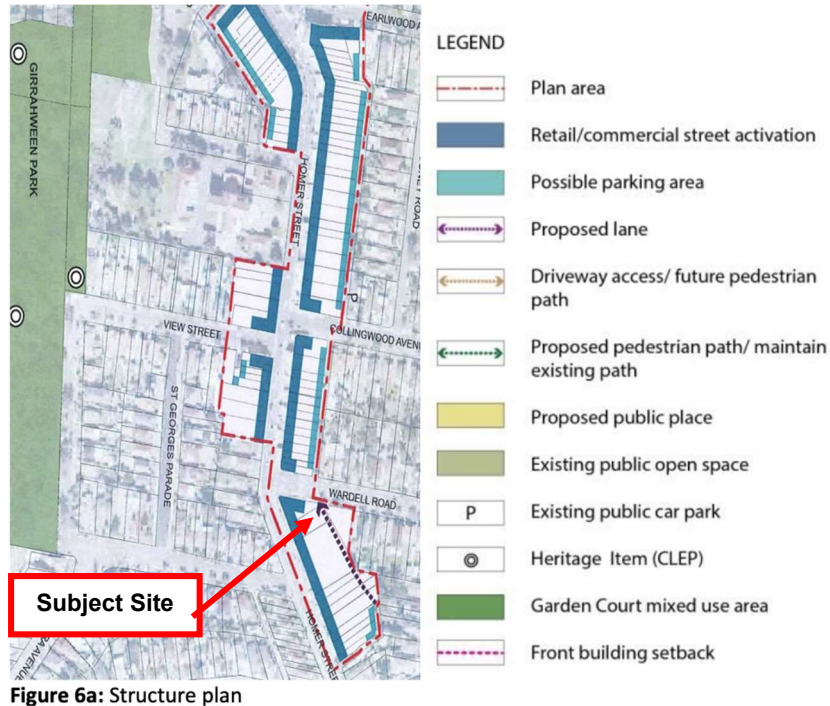
6.2.9 Built form – No change is proposed to the building entry of the approved development.

6.2.10 Roof design and features – The amended built form retains a contemporary flat roof form consistent with that of the original approval.

Chapter 7 – Commercial Centres

Chapter 7.3 – City East / Section 6 Earlwood Local Centre

The subject site is located in the Earlwood Local Centre and is subject to the structure plan contained at Figure 6a of the DCP:



The proposal meets the relevant provisions for the locality below, with the numerical controls addressed in the following development control table.

6.1 Structure plan – The amended built form continues to be in accordance with the structure plan for the locality with no change to the active street frontage and laneway identified for the site.

6.3 Front setbacks – The proposed additional storeys retain the setback of the approved levels on the site greater than 4 storeys, with a setback of 5m from Homer Street.

6.8-6.11 On boundary with residential zone – rear setback – The rear setback of the development is not altered by the proposal. The proposed additional storeys are designed to be recessed away from the rear boundary of the site and towards Homer Street, sitting comfortably within the height plane which applies to the site.

5.0 DEVELOPMENT CONTROL TABLE

The following table is an assessment of the amended development in accordance with the relevant numerical planning controls contained in the Canterbury Bankstown Local Environmental Plan 2023 and Canterbury Bankstown Development Control Plan 2023.

	Proposed	Standard	Compliance
Canterbury LEP 2023			
CI 4.3 Height	Maximum height to parapet/Roof form 23.4m	18m SEPP (Housing) 2021 provides 30% bonus up to 23.4m	Yes
	North-west corner – maximum height 10.1m	8.5m SEPP (Housing) 2021 provides 30% bonus up to 11.05m	Yes
Canterbury Bankstown DCP 2023			
Chapter 5 Residential Accommodation – Section 6 Shop Top Housing			
6.2.3 Balconies and Communal Open Space	Balconies comply with ADG	Balconies – Apartment Desing Guide	Yes
	25.6% and 934m ²	Communal Open Space – 15% and 546.75m ²	No change
6.2.5 Floor to Ceiling height	Additional levels 3.1m Floor to Floor 2.7m Habitable floor to ceiling	4C – ADG	Yes
6.2.6 Setbacks	Additional levels: 5m – Homer Street	3F – Visual Privacy ADG separation requirements apply	N/A
	Nil – Eastern boundary		
	Nil – Wardell Road		
	14.13-19.965m – Rear boundary		
6.2.7 Building Depth	8.2m-10.2m depth	4B – Natural Ventilation requirements apply	Yes
6.2.8 Building Separation and Visual Privacy	Additional Levels	3F – Visual Privacy ADG	Yes
	14.13m – 19.965m setback to northern (rear) boundary	5-8 storeys. Habitable rooms 9m + 3m to lower zone	
Chapter 7 Commercial Centres – Section 6 Earlwood Local Centre			
Front setback	Additional levels: 5m – Homer Street	Number of storeys at the street and setback	Note 1
	Nil – Eastern boundary	1–3 storeys Build to front boundary	
	Nil – Wardell Road		

	Proposed	Standard	Compliance
	14.13-19.965m – Rear boundary	Upper level (podium) setback Fourth storey – 3m Greater than four storeys – 5m (all storeys to be setback this distance including the fourth storey)	
Side Setbacks	5m – Homer Street Nil – Eastern boundary Nil – Wardell Road 14.13-19.965m – Rear boundary	On boundary with residential zone – side setback 6.5 Establish a 45 degree height plane projected at 1.5m from the residential boundary. 6.6 Provide minimum 1.5m setback to the residential zone boundary. 6.7 A two storey limit on the boundary with residential zone applies (refer to Figure 6b) On boundary with residential zone – rear setback 6.8 Establish a 45 degree height plane projected at 6m from the residential zone boundary. 6.9 Provide minimum 6m setback to the residential zone boundary. 6.10 A two storey limit on the boundary with residential zone applies (refer to Figure 6c). 6.11 A setback to a rear lane is not required.	Note 1
Minimum frontage	Homer Street: 81.39m Wardell Road: 73.44m	18m	Yes

Note 1: The additional levels (fifth and sixth storey) achieved by the provision of affordable housing pursuant to Division 1 In-fill affordable housing of SEPP (Housing) 2021 align with the approved setback to Homer Street and Wardell Road. The built form of the proposed upper levels is suitable for this corner site and the design ensures adequate separation to the northern boundary is achieved to maintain a transition of built form to the R2 – Low Density Residential Zone

6.0 ENVIRONMENTAL ASSESSMENT

6.1 Planning Instruments and Controls

The planning instruments applying to the subject site and this development proposal are addressed in detail in the previous section of this report.

This development application is described as amendments to the approved development consent DA-779/2020. The application is not submitted as a Section 4.55 modification application, but rather an assessment of the built form proposed under this application in its totality, including an assessment of the entire building form where required and not only the altered portions.

An assessment of this application is undertaken throughout this statement in accordance with *Gordon & Valich Pty Ltd v City of Sydney Council [2007] NSWLEC 780* in that whilst the amendments to the original consent is not “development” the proposed built form and use of land envisaged under this development application is in fact “development”.

In summary, the subject site is zoned B2 Local Centre zone pursuant to the *Canterbury Bankstown Local Environmental Plan 2023* and the proposed amendments to the approved *shop top housing* development are permissible subject to Council consent. Further, as the site is within an accessible area and the amended development provides affordable rental units in accordance with *SEPP (Housing) 2021*, an additional height bonus is provided to the development. The resultant built form complies with the maximum permitted height for the site pursuant to the SEPP.

The amended development continues to meet the objectives of the development controls contained within the *Canterbury Bankstown Local Environmental Plan 2023* and *Canterbury Bankstown Development Control Plan 2023*.

6.2 Design and Streetscape Qualities

The two storey addition proposed to the approved building has been designed in accordance with the anticipated building height for affordable housing pursuant to the *SEPP (Housing) 2021* which provides a height bonus to the development. The additional building height allocated to affordable housing is suitable for a corner site, with the resultant built form at the Homer Street and Homer Street/Wardell Road corner of the approved development having a 14.13m – 19.9m setback to the northern boundary (R2 Low Density zone) to ensure a suitable transition is maintained in accordance with the approved building under DA-779/2020

The resultant built form is consistent with recent developments in the locality noting the built form within higher density land use zones across Canterbury Local Government Area are currently undergoing a transition associated with the uplift in planning controls.

The streetscape appearance of the development in its totality is compatible with, and complementary to the originally approved built form. The additional height has been designed in a slender footprint concentrated above the portion of the approved development fronting Homer Street which comfortably accommodates the additional building density at the Homer Street and corner of the approved development/subject site.

6.3 Visual and Acoustic Privacy

The proposed additions to the approved development do not present unreasonable visual or acoustic privacy impacts to the surrounding properties noting the additional levels have a 14.13m – 19.9m setback to the northern boundary meeting the design criteria at Part 3F – Visual Privacy of the ADG. Additionally, the eastern (Homer Street) elements of the additional levels have adequate internal separation meeting Part 3F – Visual Privacy of the ADG.

The additional dwellings proposed at the 5th and 6th floors of the approved development – balconies orientated towards the rear of the site do not present significant overlooking impacts upon the adjoining residential zone to the north. The approved service laneway and podium/ground floor level communal open space provide adequate visual separation to obstruct direct sightlines towards the adjoining dwellings to the north, with the eastern-most units at A.02-A.05 having a setback of 19.9m from the rear boundary providing adequate separation from the rear yards and living areas of the adjoining dwelling houses.

Internal privacy is achieved within the amended development with internal setbacks of 13.5m-18m provided between habitable conditions (bedroom windows) which provides an acceptable level of visual privacy between the proposed additional dwellings at the 5th and 6th floors of the development.

In summary, the resultant development meets the objectives for visual privacy within the ADG and at Chapter 5, Part 6.2.13 of the CBDP 2013.

6.4 Solar Access and Overshadowing

The additional residential units within the development have been designed with multiple aspects, and north- and north-west facing private open space and living areas to maximise natural light penetration to each dwelling. The amended development in its totality provides 65/85 units – 76.4% achieving a minimum of 2 hours solar access in midwinter to living areas and private open space meeting the solar access requirements of the ADG.

The development application is supported by view from the sun modelling prepared by *Loucas Architects* that are summarized below.

8AM: The shadow cast by the additional built form above the approved development will fall onto the road reserve and across Homer Street upon the front yards of the dwellings opposite Homer Street.

12PM: The shadow cast by the development proposal is largely contained within the Homer Street road reserve and upon the front elevation and roof forms of dwellings opposite Homer Street.

4PM: The shadow cast by the development will fall to the south east partly overshadowing the development to the east of the site and development on the southern side of Homer Street. These developments will otherwise receive solar access from 10am – 2pm at mid-winter.

The adjoining sites to the east can be developed in the future to align with the development proposal, with a raised podium level and consistent setbacks at upper levels able to ensure adequate solar access is provided to any shop top housing development. The associated impacts of the proposed additional storeys on the site do not contravene the objectives of Chapter 5, Part 6.2.12 of the CBDCP 2023

6.4 Traffic and Car Parking

The amended development application – additional 22 x dwellings proposed generates a parking demand of 70 x spaces pursuant to the SEPP (Housing) 2021, with 16 x dwellings proposed as affordable rental units. The additional parking demand generated by the proposal is accommodated within the basement carpark levels which provide a total of 104 residential spaces.

The development application is supported by an updated Traffic and Parking Impact Assessment prepared by *Motion Traffic Engineers* confirming the additional traffic generation from the proposed development can be accommodated within the capacity of the local road network.

6.5 Site Suitability

Based on the preceding assessment, the additional storeys proposed above the approved built form under DA-779/2020 is suitable for the site, providing for in-fill affordable housing within an accessible area in close proximity to public transport, commercial services, and employment opportunities.

The additional residential dwellings proposed within the approved development is consistent with the NSW Department of Planning *In-fill Affordable Housing Practice Note*, which identifies opportunity for the delivery of new affordable housing in well-located areas to meet demand for low-moderate income households.

The resultant building density is consistent with that envisioned by *SEPP (Housing) 2021* which provides a height bonus of 30% to the site, which is not subject of an FSR control with 15% of the amended development's gross floor area to be used for affordable housing. The additional building height – density is concentrated towards the southern portion of the approved building footprint and is suitable for a corner site, being designed to step down at the north-west corner adjoining the R2 Low Density Residential zone to the north.

7.0 CONCLUSION

In conclusion it is considered that the proposed development is acceptable under the considerations of S 4.15 of the E.P& A. Act 1979. The following conclusions are made in relation to the development proposal:

- *The proposed amended development application including additions to the approved shop top housing development are permissible with the consent of Council pursuant to Canterbury Bankstown Local Environmental Plan 2023.*
- *The development application relates to amendments to an approved development which has not yet been constructed, the assessment and subsequent approval of this application will impact the current approved development for the site DA-779/2020. The modification or surrender of this consent where required can be addressed by a condition of consent prior to the issue of the construction certificate.*
- *The proposal seeks to amend the approved development to incorporate infill affordable rental housing units and meets the provisions of SEPP (Housing) 2021, and complies with the additional height bonus provided pursuant to Clause 18 of the SEPP (Housing) 2021.*
- *The amended built form including two additional storeys is consistent with the planning principles and design criteria contained in SEPP (Housing) 2021 and the ADG.*
- *The proposed amendments result in an appropriate built form for the site with the additional height comfortably positioned above the approved building being concentrated at the Homer Street frontage and corner of the approved development achieving adequate separation and transition to the adjoining residential zoned land on the northern boundary of the subject site.*
- *The proposed amendments to the approval do not result in unreasonable privacy impacts to the adjoining properties noting the setback of the proposed upper levels meet Part 3F – Visual Privacy of the ADG.*
- *The proposed amendments to the approval do not result in unreasonable additional overshadowing of the adjoining properties beyond that of the approved built form.*
- *The subject site is suitable for the proposed additional levels in accordance with clause 18 of SEPP (Housing) 2021 by contributing to housing supply and improving housing affordability within the Earlwood Local Centre.*

For reasons outlined in this Statement of Environmental Effects, it is our opinion that the amending development application – alterations and additions to the approved *shop top housing* development on the site, previously approved under DA 779/2020 at 221-235, 241-247A Homer Street & 208 Wardell Road, Earlwood should be granted development consent.

Chapman Planning Pty Ltd