

SECTION 4.55(2) MODIFICATION APPLICATION



Modification to condition of
Development Consent DA-264/2021
at
No. 42 Homer Street, EARLWOOD



Certification

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PRE-AMBLE

The following documentation is provided in accordance with the outlined deliverables relating to the request for a Statement of Environmental Effects in support of a modification to development consent DA-264/2021 at No. 42 Homer Street, Earlwood. The Statement has been provided with a focus on the existing planning controls and consideration for past, present, and future planning regimes.

1. PRELIMINARIES

Request for Statement of Environmental Effects	James Sallit
Site Street Address	42 Homer Street Earlwood
Legal Identifier	Lot 111 DP 529383
Total site area	Lot area of 499.4m ²
Local Government Area	Canterbury Bankstown Council
Land Zone	R2 Low Density Residential Zone
Bushfire	No

2. EXECUTIVE SUMMARY

This statement has been prepared by Storksbill on behalf of James Sallit relation to the modification to development consent DA-264/2021. This statement addresses the relevant planning controls, planning proposals and other relevant planning data. The statement also reviews impacts and opportunities relating to State and Local EPI's and Draft EPI's in addition to the relevant DCP information and guidance.

Additionally, relevant strategic documents have been reviewed and their potential impacts and opportunities have been analysed. Finally, relevant recent planning approvals in a reasonable proximity to the site have also been reviewed and their impacts on the subject site have been identified.

The bulk of this analysis has focused on the proposal and the resultant relationship with the surrounding residential land uses. The intent of this document is to support the proposed development of the subject site.

It is our professional opinion that the proposed works are generally consistent with the relevant plans and policies under Clause 4.16 of The Act.

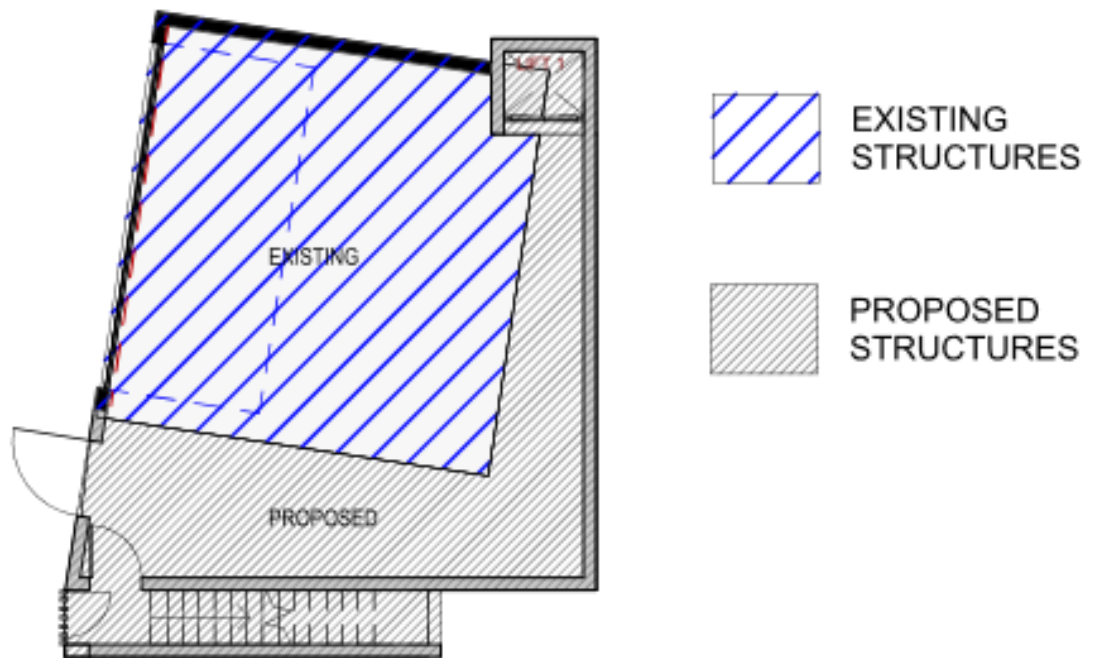
THE MODIFICATION IN DETAIL

3. THE MODIFICATION

The application seeks approval for a modification to development consent DA-264/2021 for proposed alteration and addition to existing approved dwelling house under DA264/2021.

The modification proposes to amend the following listed below;

- The proposed modifications to the garage floor involve significant alterations to enhance functionality and accessibility. The plan includes demolishing the existing southern and western walls to expand the garage area, thereby accommodating a larger and more versatile space. Additionally, a lift is proposed to be incorporated at the southeastern elevation, providing improved vertical access. Complementing this addition, a new staircase will be constructed on the western side of the garage, offering direct access to the ground floor. These changes aim to optimize the use of the garage floor while ensuring seamless connectivity between levels, aligning with contemporary design standards and improving overall accessibility.**



1 DA15 06-GARAGE FLOOR (PROPOSED)1 : 150

Figure 1: Proposed Garage Floor Plan

2. The proposed modification to the ground floor involves the removal of the existing balcony wall, with the intent to expand the balcony area. This expansion will facilitate the inclusion of two lifts, designed to enhance accessibility throughout the building. Lift 1 will be accessed directly from the garage, while Lift 2 will provide access to the ground, first, and second floors. The rationale for these modifications stems from the site's topographical constraints and the necessity to meet accessibility requirements. These changes will not only improve functionality but also ensure compliance with relevant building codes and standards for accessible design.

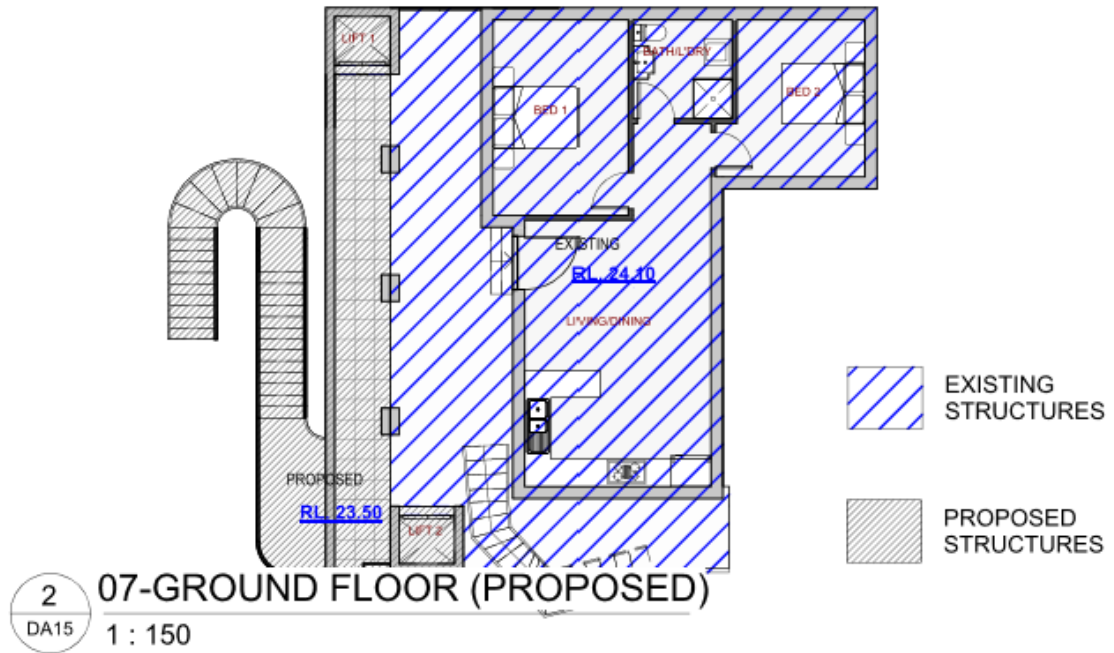


Figure 2: Proposed Ground Floor Plan

3. The proposed alterations to the first floor include the removal of the existing balcony wall to facilitate an expanded balcony area. This expansion is designed to integrate the space necessary to accommodate the installation of Lift 2. Additionally, the plans include the refurbishment of the existing western staircase, enhancing its structural integrity and aesthetic alignment with the updated design. These modifications aim to improve functionality and accessibility while contributing to the overall modernization of the property.

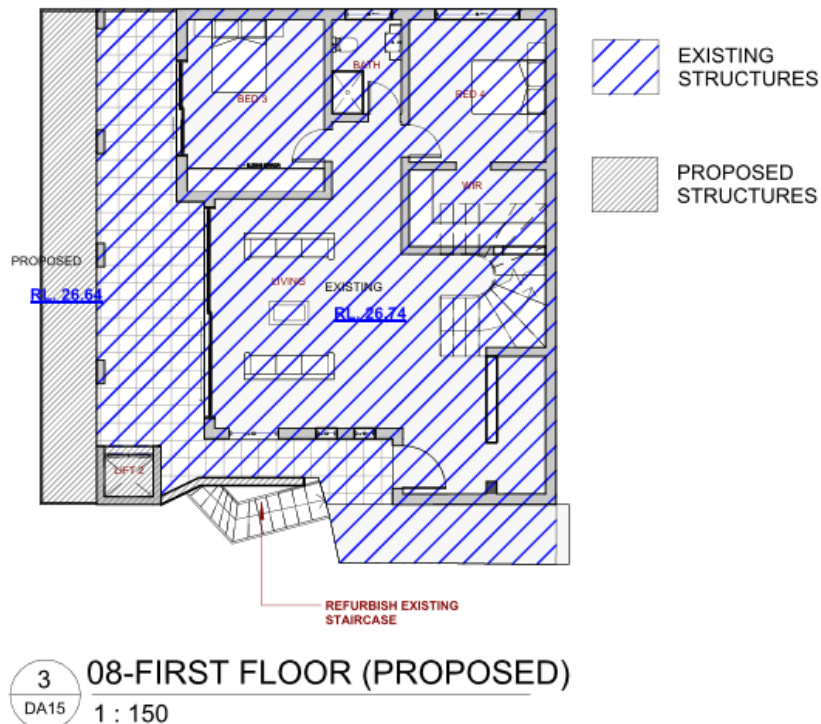


Figure 3: Proposed First Floor Plan

4. The proposed modifications to the second floor aim to enhance both functionality and livability through strategic redesigns. These adjustments include:

a) Northern Wall and Bifold Doors

The existing northern wall is proposed to be removed and replaced with bifold doors. This change will allow for improved natural ventilation and sunlight access, creating a seamless indoor-outdoor connection. The private open space of the balcony will be integrated into the living room and kitchen, enhancing the usability and aesthetic appeal of the interior spaces.

b) Incorporation of Lift 2

A second lift (Lift 2) has been introduced into the design, accessible via the balcony. This feature enhances accessibility across floors, catering to diverse user needs and aligning with contemporary standards of convenience.

c) Southern Wall of Bedroom 2

The southern wall of Bedroom 2 is proposed to be demolished and extended further outward to accommodate Windows 3 and 4 on the eastern elevation. This extension will increase the room's overall space and improve natural lighting and external views.

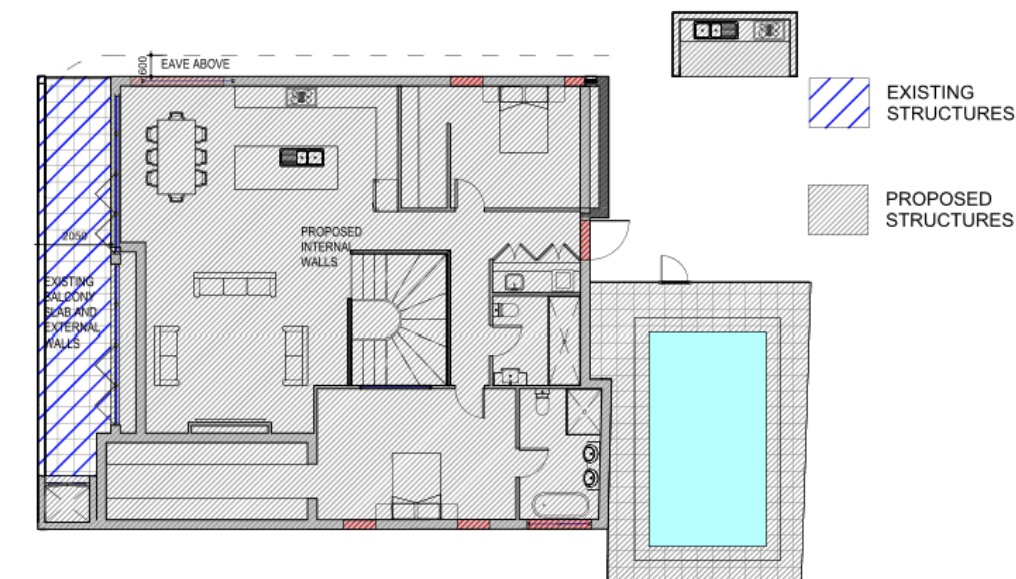
d) Eastern Elevation Adjustments

Additional walls will be removed to incorporate Windows 1 and 2 on the eastern elevation. These changes aim to enhance the penetration of daylight and cross-ventilation, thereby improving the internal environment's energy efficiency and comfort.

e) Western Elevation Adjustments

The proposal includes removing walls to incorporate Windows 5 and 6 on the western elevation. These adjustments ensure balanced light distribution and aesthetic symmetry on the western facade.

The proposed redesign demonstrates a thoughtful approach to improving functionality, accessibility, and sustainability while maintaining architectural harmony. The modifications align with contemporary design principles and aim to enhance the overall quality of living within the residence.



4 09-SECOND FLOOR (PROPOSED)
DA15 1 : 150

Figure 4: Proposed Second Floor Plan

The resulting development would be substantially the same as that approved, proving consistency with Section 4.55(2) modification under the *Environmental Planning and Assessment Act 1979*.

LOCALITY DESCRIPTION

4. THE SUBJECT SITE

The subject site, legally identified as Lot 111 in DP529383, is commonly referred to as 42 Homer Street, Earlwood. The property comprises a regular, rectangular-shaped allotment with existing pedestrian and vehicular access directly from Homer Street.

The site features a notable slope descending towards Homer Street, which includes a cliff face that has influenced the design and configuration of the proposed development. Despite this challenging topography, the site does not contain any significant natural landscape features or vegetation that would be adversely affected by the proposed modifications.

The site is subject to several easements, including those for sewer, stormwater, and footway purposes. However, a thorough assessment confirms that none of these easements will be impacted by the proposed development, ensuring compliance with existing legal and infrastructure constraints.

This analysis underscores the suitability of the site for the intended modifications while maintaining adherence to relevant planning and regulatory requirements.



Figure 5: Front View of the subject site

4.1 Site Surrounds

The subject site, located at 42 Homer Street, Earlwood, NSW, is situated within a predominantly residential area characterized by a mix of single and double-storey dwellings. The immediate locality reflects a transition between traditional and contemporary urban development, highlighting the evolving character of the suburb.

The property is positioned on the northern side of Homer Street, a key local thoroughfare that provides connectivity to surrounding suburbs and regional transport links. The street benefits from established tree-lined verges, contributing to the area's visual amenity and enhancing its suburban appeal.

To the north of the site lies a mix of residential properties featuring similar lot sizes, many with private gardens and ancillary structures. The built form predominantly includes post-war brick dwellings, interspersed with more recent modern developments that demonstrate a trend toward redevelopment in the area.

To the south, the site overlooks Homer Street, which serves as a collector road with moderate vehicular traffic. Beyond the street, additional residential properties extend, interspersed with pockets of small-scale commercial activity that cater to local needs.

Eastward, the site is bordered by adjacent residential properties, consistent in use and form, maintaining a cohesive streetscape.

Westward, the site is flanked by further residential dwellings and, within walking distance, green spaces and public amenities that serve the local community, enhancing the liveability of the area.

The broader vicinity of Earlwood is characterized by its accessibility to public transport, educational institutions, and recreational facilities. Proximity to nearby parks, such as Gough Whitlam Park and the Cooks River foreshore, further enriches the environmental and lifestyle value of the location.

In summary, the subject site at 42 Homer Street is well-positioned within a residential precinct that balances suburban tranquillity with proximity to urban conveniences, making it a sought-after location for diverse development opportunities.



Figure 6: Aerial Location Map

Source: Espartial

5. SITE HISTORY

A review of Council records indicates that there are previous approvals that relate to the subject site.

The subject of this modification application pertains to the most recent development consent No. DA-264/2021 which was approved in 2021 for Alteration and Addition to existing dwelling, swimming pool and spa and new outbuilding.

Further to that a Modification Section 4.55 (1a) was lodged under DA-264/2021/B for PROPOSED MODIFICATION: Enlarge the existing garage, excavate the front rock outcrops to accommodate a new entrance and lift access, install a new deck above the garage, install a lift shaft on the front face of the dwelling house and enlarge the balconies on each level of the dwelling house [Section 4.55(1A)], was refused on 5th October 2023.

The current proposal aims to ensure the application is assessed under the appropriate classification to accurately reflect the environmental impacts arising from the proposed modification. This approach is critical to aligning the assessment with applicable statutory requirements, ensuring compliance with environmental planning instruments, and mitigating potential adverse impacts on the surrounding environment.

By applying under the correct classification (section 4.55(2)), the proposal demonstrates a commitment to transparency and a rigorous evaluation of environmental considerations. This includes addressing the cumulative impacts of the modification and ensuring that the proposal aligns with the objectives of the applicable zoning and land-use planning framework.

THE ASSESSMENT

6. CLAUSE 4.15 THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

6.1 The Provisions of any Environmental Planning Instrument (EPI)

6.1.1 State Environmental Planning Policy (Resilience and Hazard)

Chapter 4 Remediation of Land

The aim of Chapter 4 within this policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Part 4.6 requires that consent not be granted until Council has considered whether the land is contaminated.

The subject site has historically been used as a residential building not for any other purpose. No evidence of contamination was observed during inspection of the site. Thus, no further assessment is required in this regard.

6.1.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-rural Areas

Chapter 2 of the Biodiversity and Conservation SEPP aims to ensure that the value of trees and other vegetation in non-rural area are protected. Proposed development does not require the removal of any trees on site, as such no further assessment is required in this regard.

7. CLAUSE 4.55 THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The proposal constitutes an amendment under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* involving other modifications. Pursuant to this Section, Council may consider an application to amend development consent provided that, inter alia:

(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

(b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the*

general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

With regards to (a) the proposed modification under Section 4.55(2) for 42 Homer Street, Earlwood, is consistent with the objectives of the clause, particularly in relation to ensuring that the development, as modified, remains substantially the same as the development for which the original consent was granted.

The original approval for the site outlined specific design parameters and land-use objectives which were deemed appropriate for the location and context. The proposed modifications do not alter the overall intent or the fundamental aspects of the original development, including its scale, form, and function. Instead, they involve adjustments that maintain the integrity of the approved concept while improving or refining specific design elements to respond to either unforeseen conditions or changes in regulations, without introducing a significantly different development outcome.

Furthermore, the modifications have been carefully considered to ensure they do not undermine the development's compliance with relevant planning controls, including zoning requirements, building height limits, and setbacks. The proposed changes are incremental in nature and are primarily focused on addressing technical aspects or minor refinements that were not fully addressed in the original approval.

By maintaining the original development's intent, form, and impact, the modified proposal continues to meet the key objectives of the consent, ensuring that the development remains consistent with the local character, amenity, and planning framework as originally envisaged. Therefore, the modification under Section 4.55(2) is justified, as it ensures the development remains substantially the same as the originally approved consent while appropriately addressing minor adjustments or improvements to enhance the overall proposal.

With regard to (b), the application was not required to be notified to any public authority or approval body.

With regard (c) and (d), the application was notified to the public and no submissions were received.

7.1 The provisions of any Draft Environmental Planning Instrument (EPI)

There is no draft environmental planning instruments that require further consideration.

7.2 Canterbury-Bankstown Local Environmental Plan 2023

The proposed modification would not alter the developments compliance with the development standards applicable to the site.

7.3 The provisions of any Development Control Plan (DCP)

The following development control plan is applicable to the development.

7.3.1 Canterbury-Bankstown Development Control Plan (DCP) 2023

The Canterbury-Bankstown Development Control Plan 2023 is applicable to this development. The modification will not vary the approved developments compliance with the DCP.

7.4 Planning agreements or draft planning agreements

There are no planning agreements or draft planning agreements submitted under Section 7.4.

7.5 The Likely Impacts

Environmental

The assessment of the proposal has shown that any environmental impacts resulting from the proposal will be negligible. The proposal satisfies the requirements of both the natural and built environments.

Social

The proposal adds to the opportunities for an appropriate land use, allowing for a mixture of residential, shop top housing, commercial and retail premises. The proposal allows for greater usability and functionality of the site providing improvements to meet the needs of the local community. The proposal is consistent with the social requirements in these regards.

Economic

The provisions of the opportunity within this appropriately zoned locality, will allow a contribution to the increased longevity of the property and use by homeowners whilst showing regard for the requirements and objectives within the zone and adjoining zones.

7.6 Site Suitability

The site suitability is indicated by the appropriate land use being located within zone. The proposal has demonstrated compliance on a merit-base with the standards and controls together with a consistency of all underlying objectives of both State and Local policies. The application is considered acceptable with regards to suitability of the site.

7.7 Submissions

There have been no submissions received from any public person, private or Government Authorities at the time of the preparation of this report.

7.8 The Public Interest

The public interest is served by the provision of the appropriate land use that is consistent with Local and State planning objectives. The land use responds at a strategic level to desired planning outcomes together with increased value of the property within the region. The proposal is consistent with the underlying objectives of the EP&A Act in that it is an appropriate and economical use of the available resource.

CONCLUSION

8. CONCLUSION

The modification application has provided an assessment of the DA 264/2021 against the relevant provisions of the Canterbury-Bankstown LEP. The subject site is located within a R2 zoned area; thus, the proposal is considered compatible and satisfies the zone objectives at a strategic level.

The project, located within suburban Bankstown offers an opportunity for the upgrading of the site which will provide for and contribute to the residential diversity in this area. The proposal has demonstrated consistency with the underlying objectives of the controls and compliance with the numerical standards contained within both State and Local policies. We submit that the proposal is consistent with Councils expectations and there is no planning reason why this proposal should not be approved.