

# Statement of Environmental Effects – S4.55(2)

116-124 RESTWELL STREET,  
BANKSTOWN

04 FEBRUARY 2025



## QUALITY ASSURANCE

<b>Project:</b>	Section 4.55 (2) to an approved residential flat building
<b>Address:</b>	116-124 Restwell Street, Bankstown
<b>Lot /DP:</b>	Lots 2, 3, 4 and 5 in DP 13055 and Lot 100 in DP1135453, 116-124 Restwell Street, Bankstown
<b>Council:</b>	Canterbury Bankstown City Council
<b>Author:</b>	Think Planners Pty Ltd

## Document Management

<i>Prepared by:</i>	<i>Purpose of Issue:</i>	<i>Date:</i>
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## Integrated Development (under S4.46 of the EP&A Act). Does the development require approvals under any of the following legislation?

Coal Mines Subsidence Compensation Act 2017	No
Fisheries Management Act 1994	No
Heritage Act 1977	No
Mining Act 1992	No
National Parks and Wildlife Act 1974	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No
Roads Act 1993	No
Rural Fires Act 1997	No
Water Management Act 2000	No

## Concurrence

SEPP (Industry and Employment) 2021	No
SEPP (Resilience and Hazards) 2021	No
SEPP (Transport and Infrastructure) 2021	No
SEPP (Planning Systems) 2021	No
SEPP (Precincts—Central River City) 2021	No
SEPP (Precincts—Eastern Harbour City) 2021	No
SEPP (Precincts—Regional) 2021	No
SEPP (Precincts—Western Parkland City) 2021	No
SEPP (Biodiversity and Conservation) 2021	No

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## EXECUTIVE SUMMARY & KEY CHANGES

This Statement of Environmental Effects has been prepared in support of a Section 4.55(2) modification to an approved Development Application (DA-333/2016) and subsequent modification at 116-124 Restwell Street, Bankstown.

This modification primarily seeks to amend the unit mixes of affordable housing and increase the overall apartment yield by 2 apartments along with other minor changes to the building layout and elevation materials. The rationale for the change is that the provisions of SEPP (ARH) 2009 have now been rolled into the provisions of SEPP (Housing) 2021 and altered the way in which the affordable housing provisions work- meaning that the extent of affordable housing is now required to be 15%, and a 30% height and 30% FSR bonus is afforded to these proposals.

Therefore this scheme has been proposed to bring the proposal into alignment with those provisions- and it does enable the delivery of two (2) additional dwellings on the site.

The modification will retain the approved setbacks, and the design elements of the building facades are largely unchanged.

A list of the proposed changes is provided below:

- Ground floor layouts are amended to accommodate required waste storage capacity.
- Level 5, Unit 042 located on the Western corner façade to be amended.
- An inclusion of Level 6 to accommodate two extra apartments, communal open space and associated services for the development.
- Increasing building height to allow for services and two additional units.
- Amendments to the number of approved affordable housing units from 42 to 15- which equates to the required 15% of the gross floor area of the development.
- Amendments to the driveway ramp at Basement Level 1

As noted above the amendments arise primarily due to the recent changes to the Housing SEPP. In particular, with the changes to the affordable housing mix and the provision of two additional apartments which is a positive outcome.

### Number of units

The proposal will increase the number of apartments by two units totalling 89 apartments with the following amended unit mix.

Unit Type	Amount
Studio	1
1-Bedroom	19
2-Bedroom	67
3-Bedroom	2

### Number of affordable Housing Units

The number of affordable housing units is proposed to be amended from 42 to 15 units.

### NDIS Units

The development will allocate 12 of the units as NDIS units. No changes to the number of NDIS units.

### Parking changes

No changes to the approved parking spaces as the existing parking provision is compliant with the SEPP provisions.

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, and that the proposal represents an appropriate use of well-located land, the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate amended conditions of consent.

## BACKGROUND

### ***Prior Consent***

DA Approval: DA-333/2016 15 February 2017

DA-333/2016 was approved by the Sydney South Joint Regional Planning Panel (JRPP Ref: 2016SYW097) on 15 February 2017 for the *Demolition of existing structures and construction of a six (6) storey residential development comprising eighty-seven (87) units above two (2) levels of basement car parking.*

### ***Subsequent modifications***

DA-333/2016/A 6 May 2024

DA-333/2016/A was approved by the Canterbury Bankstown on 6 May 2024 for the *Changes to basement layouts increasing the number of parking spaces, changes to internal layouts of units and common spaces, changes to which units are designated as 'affordable housing', external materials changes, and increase floor to floor heights from 3m to 3.15m to enable the building to comply with the current provisions of the Building Code Australia/ National Construction Code, resulting in overall building height increasing by 1.1m [Section 4.55(2)]*

It is noted that the consent has been activated noting that the site has been amalgamated and one of the dwellings on the site has been demolished in accordance with the consent- as shown at Figure 1 of this statement.

## SITE AND LOCALITY DESCRIPTION

The subject site is legally described as Lot 100 DP 1135453 and Lots 2, 3, 4 & 5 DP 13055, known as 116-124 Restwell Street, Bankstown. It is proposed to amalgamate five lots and demolish existing structures on site in order to erect a six storey *'Residential Flat Building'* with frontages to Restwell and Macauley Street. It is noted that the consent has been activated noting that the site has been amalgamated and one of the dwellings on the site has been demolished in accordance with the consent-as shown at Figure 1 of this statement.

Located on the eastern side of Restwell Street to the north of Macauley Avenue. The site is located approximately 700m south of the Bankstown train station and town centre. A bus stop that is serviced by 10 separate bus routes is located right out the front of the site with regular services to East Hills, Panania, Revesby, Hurstville, Sutherland and Liverpool.

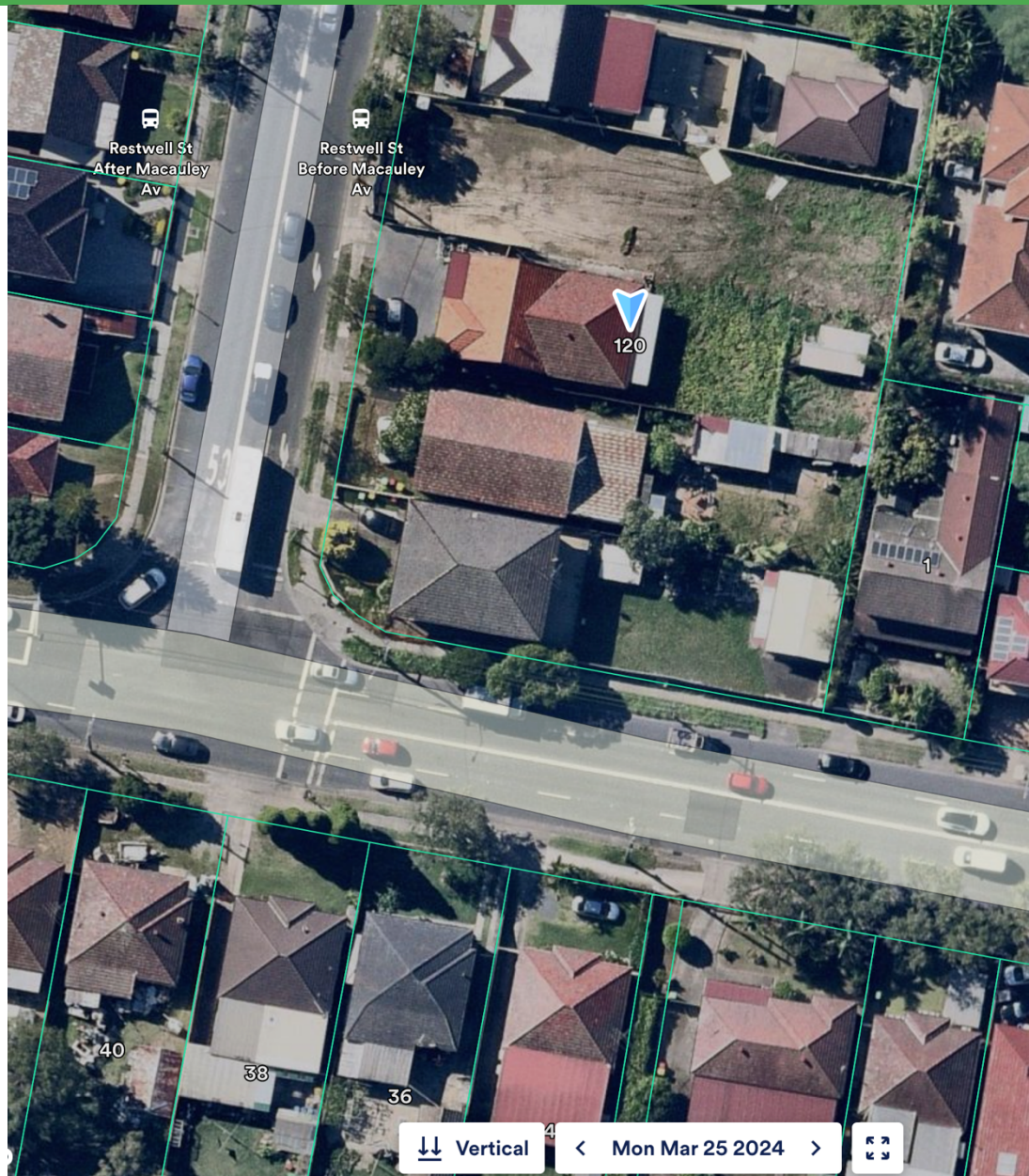
The development is a regular shaped corner allotment with frontage to Restwell Street and Macauley Avenue. The site comprises of 5 separate allotments with a total site area of 3,193.81m<sup>2</sup>. The site has a frontage of approximately 60m to Restwell Street and 50m to Macauley Avenue. The subject site is zoned R4 High Density Residential under Canterbury-Bankstown Local Environmental Plan 2023. *'Residential Flat Buildings'* are permissible with consent within the R4 Zone.

A single storey dwelling and associated outbuildings are currently located on each lot. The site is generally flat but has a very minor slope from the rear to the street of approximately 0.5m. The site contains some small trees which are proposed to be removed and replaced with additional trees that will enhance the landscaped setting of the area.

Located within an established residential area, there are mostly older style single dwelling housing developments within the vicinity of this site. However, the emerging trend is for higher density housing developments which takes advantage of this very accessible location near public transport and all the facilities available in Bankstown town centre. The existing dwellings are in a reasonable condition; however, they are significantly underutilising the site's full development potential given the given the R4 High Density Residential zone permits greater intensification of the subject site. The aerial extract and photographs of the locality provide context to the development site.



Figure 1: Aerial map of the subject site (source: six maps).



 - Subject Site

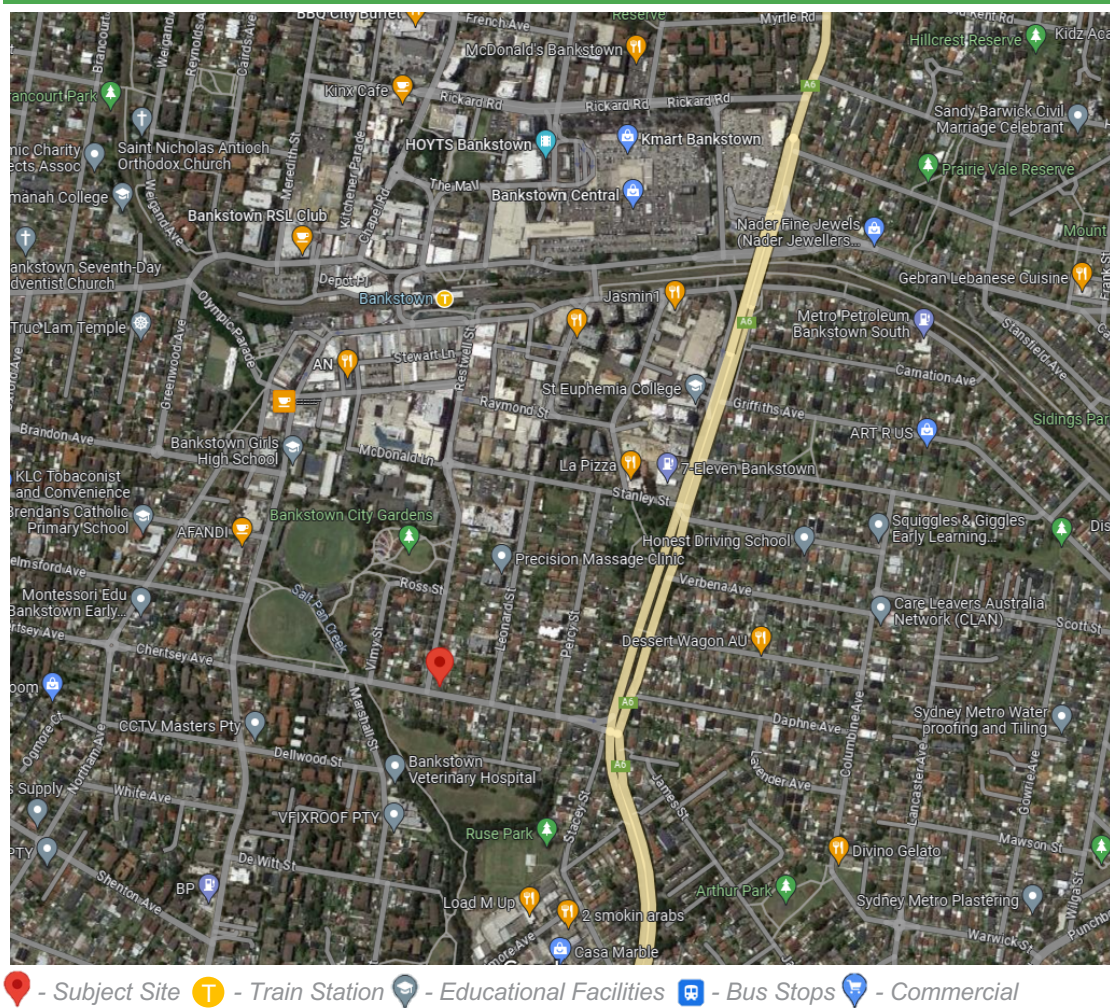
The existing built form character of the subject area is dominated by older style residential flat buildings of mixed ages and architectural styles interspersed by single storey residential dwellings. It is noted that with the current demand for housing within close proximity to centres and key arterial routes and in-conjunction with an absence of heritage items and with the subject area being earmarked to accommodate future high density housing by virtue of the R4 High Density Zoning, it is expected that the remaining stock of low density housing will be redeveloped for higher densities in the medium term.



The current Sydney Metropolitan Strategy 'A Plan for Growing Sydney' supports higher residential development in strategic locations to accommodate future population growth, and Bankstown City Council has zoned the subject site R4 High Density Residential, to encourage higher density residential development in this favourable location. Furthermore, the locality is ideal for future urban intensification as it is located within close proximity to Bankstown Town Centre, with bus stops with regular services to Canterbury, Roselands, Bankstown, Liverpool and Burwood is located opposite the subject site. The map below demonstrates that the subject site is within 1km of the southern edge of Bankstown Town Centre and within a large industrial estate.

The site is located within key arterial road networks. The proposal also seeks to utilise the land in accordance with the zoning and provide alternative residential accommodation opportunities within close proximity to essential services, recreational opportunities and public transportation.

**Figure 2: Aerial Map Extract of the Subject Area (Source: Google Maps).**



Photographs are provided below that give context to the locality and also the relationship of the development site with adjoining developments.

**Photograph 1:** shows the subject site as viewed from the corner of Restwell Street and Macauley Avenue.



**Photograph 2:** shows the old style medium/high density development along Restwell Street.







**Photograph 3:** shows more contemporary mixed use development on Restwell Street but further north from the site.



**Photograph 4:** Existing houses on the opposite side of Restwell Street.



## DESCRIPTION OF PROPOSAL

This modification primarily seeks to amend the unit mixes of affordable housing and increase the overall apartment yield by 2 apartments along with other minor changes to the building layout and elevation materials. The rationale for the change is that the provisions of SEPP (ARH) 2009 have now been rolled into the provisions of SEPP (Housing) 2021 and altered the way in which the affordable housing provisions work-meaning that the extent of affordable housing is now required to be 15%, and a 30% height and 30% FSR bonus is afforded to these proposals.

Therefore this scheme has been proposed to bring the proposal into alignment with those provisions- and it does enable the delivery of two (2) additional dwellings on the site.

The modification will retain the approved setbacks, and the design elements of the building facades are largely unchanged.

A list of the proposed changes is provided below:

- Ground floor layouts are amended to accommodate required waste storage capacity.
- Level 5, Unit 042 located on the Western corner façade to be amended.
- An inclusion of Level 6 to accommodate two extra apartments, communal open space and associated services for the development.
- Increasing building height to allow for services and two additional units.
- Amendments to the number of approved affordable housing units from 42 to 15- which equates to the required 15% of the gross floor area of the development.
- Amendments to the driveway ramp at Basement Level 1

As noted above the amendments arise primarily due to the recent changes to the Housing SEPP. In particular, with the changes to the affordable housing mix and the provision of two additional apartments which is a positive outcome.

### Number of units

The proposal will increase the number of apartments by two units totalling 89 apartments with the following mix.

Unit Type	Amount
Studio	1
1-Bedroom	19
2-Bedroom	67
3-Bedroom	2

### Number of affordable Housing Units

The number of affordable housing units is proposed to be amended from 42 to 15 units. The below table identifies which units will be dedicated as affordable housing units.

Proposed Affordable Units Table	
Unit	Area(m <sup>2</sup> )
004	44
005	90
006	77
007	75
025	76
026	76
027	55
028	75
048	81
049	75
050	52
051	78
072	91
073	86
074	80
Min AFH sqm (15%)	1090
Proposed AFH sqm	1111
Number of Units	15

### NDIS Units

The development will allocate 12 of the units as NDIS units. No changes to the number of NDIS units.

### Parking changes

No changes to the approved parking spaces.



## CONSIDERATION OF PLANNING CONTROLS

The following summarises the relevant planning controls in relation to the proposal and the compliance of each.

### S.4.55(2) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Pursuant to S.4.55 of the Act, Council may consider an application to amend a development consent provided that it is of minimal environmental impact and is substantially the same development. The application is substantially the same as the approved development, with the development concept continuing to incorporate a six (6) storey residential development comprising eighty-seven (87) units above two (2) levels of basement car parking of comparable form and scale to the approved development.

Pursuant to S.4.55(2) of the Act, Council may consider an application to amend a development consent provided that, inter alia:

*(2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the proposed modification is of minimal environmental impacts, and*

*(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The application is substantially the same as the approved development, when having regard to case law set down by the Land and Environmental Court with the development concept remaining physically the same in terms of building form and overall footprint, with the changes being predominantly the increase in two additional apartments with a minor change to the overall building height.

## Land and Environmental Court Judgement

The question as to whether a modified proposal is 'substantially the same' as that originally approved has been an ongoing issue dealt with in the Land and Environment Court. Recently the Land and Environment Court has delivered a fresh judgement in considering the development as 'substantially the same', rather than considering the 'quantitative' difference between modifications and original consent it should be considered through a 'balanced approach'. Understanding if the development is 'substantially the same' as the approved does not need to be determined by comparing 'quantitative' and 'qualitative' differences or analysing 'critical/essential elements or features'. Rather, decisions should be made based on "weighting of" or "balancing of" key details.

It is also important to note that the Court has consistently described the Section 4.55-modification provision of the Act as "beneficial and facultative". It is designed to assist the modification process rather than to act as an impediment to it; "It is to be construed and applied in a way that is favourable to those who seek to benefit from the provision" (see *North Sydney Council v Michael Standley & Associates Pty Limited* [1998]).

As demonstrated below the change to an approval can be substantial without the amended proposal failing the 'substantially the same' test. By way of example, and relevant to the current proposal, the following cases were considered in the Court and found to be substantially the same development, with this extract contained in a Mills Oakley Publication dated April 2024:

*That it is important **not to get bogged down in the 'quantitative' (numerical) differences as they appear in isolation** and that it is **entirely acceptable for there to be large numeric difference approved through the modification pathways that exist** in s.4.55/4.56 of the EPA Act **upon taking a more holistic and balanced approach to the test**.*

***Realize Architecture Pty Ltd v Canterbury-Bankstown Council [2023] NSWLEC 1437:*** The modification application sought the following;

- Removal of the ground floor visitor carpark entirely
- Complete reconfiguration and relocation of the only driveway servicing the 438 space carpark
- More than **doubling of the size of the communal open space** and completely reconfiguring it
- Adding **2 extra floors** to the approved development (over 50% of the floor place)
- **Adding 2,368m<sup>2</sup> (9.8%)** of additional gross floor area (GFA)
- Adding an **additional 10 units (2.5%)**, with internal reconfiguration of all units and significantly different unit mix

The court made the following findings:

*“After considering the various opinions, I find that there are a number of **quantitative differences** between the two developments which on face value alone and without further considerations may otherwise lead to a conclusion that the two developments are not substantially the same. However, this is not the test and is not itself conclusive for the purpose of s.4.55(2) of the EPA Act”*

*“I accept and adopt .... **Qualitative conclusion** .... That:*

*The proposal as modified:*

- a. Will not change the nature of the intensity of the use;*
- b. Whilst improving the relationship to the public domain at the ground level, this is similar with the intent established in the original approval;*
- c. Will not change the relationship to surrounding developments as the modifications will maintain the character of the original approval;*
- d. Where an increase in floor space and height is proposed on the upper levels, the development is consistent with the original approval as a whole, and the bulk and scale which establishes the streetscape character (from ground levels to levels 7/8) is unchanged per the original approval”*

*“I am not satisfied that any **critical element**... is being deleted from or even modified so significantly that it would render the two developments not substantially the same”*

*“I find that the quantitative and qualitative changes identified above cause me to form the **finely balanced** positive **opinion** that the modified development is substantially the same development as the originally approved development”*

It is apparent from the above decision that the court arrives at a decision of ‘substantially the same’ test through comparing qualitative, quantitative and critical elements of the proposed modification with the original consent. However most importantly to balance all evidence concerning the factual comparison before a decision is made regarding whether the proposed modification is ‘substantially same’ as the approved application.

This is further discussed in the Mills Oakley publication dated April 2024 as follows;

*“In our opinion, what is most notable is that, as part of its final step to balancing the evidence in respect of each of the relevant comparisons, the Court acknowledged that **although there were quantitative differences** between the Subject Modification and the Original Consent **that may appear in isolation to be significant, the focus of the test in s.4.55(2)(a) is on the whole and on an overall balancing of the two development.** In this instance, the ‘qualitative’ similarities between the two schemes were enough to negate or override the large numerical (quantitative) differences described above. This is precisely the ‘**balancing**’ exercise that a consent authority is entitled to undertake, to then form its ultimate opinion*

*The Court found that the test was satisfied albeit only on “a very fine balance”. The Court noted however that the modified design might give rise to privacy impacts that may warrant refusal of the application when the merits of the change are assessed. The application was later refused on its merits, but not before passing the “substantially the same” threshold test.“*

Further to the above Court’s findings another Judgement was handed down in support of a balanced approach in determining the ‘substantially the same’ test. Council lodged an appeal (*Canterbury-Bankstown Council v Realize Architecture Pty Ltd* [2024] NSWLEC 31) pursuant to S.56A of the LEC Act to the above judgement (*Realize Architecture Pty Ltd v Canterbury-Bankstown Council* [2023] NSWLEC 1437).

The appeal was ultimately dismissed, however, in doing so, the court endorsed the above mentioned ‘balanced’ approach in answering the ‘substantially the same’ test and clarified it to be undertaken by following a simple 3 step formula.

1. *Finding the primary facts:* *This first step involves identifying the respects in which the originally approved development is proposed to be modified. For example, these respects could include height, bulk, scale, floor space, open space and land use.*
2. *Interpreting the law:* *This second step involved interpreting the words and phrases of the ‘substantially the same’ test in s.4.55/4.56 of the EPA Act as to their meaning. In this sense, there is long established case law with respect to the earlier statutory provisions and the current statutory provision, that suggest ‘ways’ in which the relevant comparison **might be** The most commonly invoked ways have traditionally included the following:*
  - *Comparing the “**quantitative**” and “**qualitative**” differences between a proposed modified development against the original approved development (*Moto Projects (No 2) Pty Ltd V North Sydney Council* [1999] NSWLEC 280 (**‘Moto Projects’**) at [56]*
  - *Comparing the “**material and essential features**” (*Moto Projects* at [55] and [58] and *Arrage v Inner West Council* [2019] NSWLEC 85 (**‘Arrage’**) at [26]) or “**critical elements**” (*The Satellite Group (Ultimo) Pty Ltd v Sydney City Council* [1998] NSWLEC 244 (unreported 2 October 1998) at [29]) of the proposed modified development against the original approved development*
  - *Comparing the “**consequences, such as the environmental impacts**” (*Moto Projects* at [62] and *Arrage* at [28]) of carrying out the proposed modified development against the original approved development*
3. *Categorising the facts found:* *This third (and final) steps involved determining whether the fact found (determined as part of the first step) fall within or without the words and phrases of the ‘substantially the same’ test in S.4.55/4.56 of the EPA Act (determined as part of the second step). Most critically, the Court described this final step at [30] as an “**evaluative one**” that involves **assigning***

*relative significance or weight to the different facts and a balancing of the facts, as weighted. This categorisation can be an instinctive synthesis and not be articulated expressly”*

Therefore, as mentioned above to determine if the proposed modification is 'substantially the same' a holistic balanced view of the relevant assessment criteria is required.

Given the nature of the changes to this scheme and in the context of the above this proposal is without doubt substantially the same development.

The modification is predominantly contained within the approved building footprint, with a minor increase to the overall height of the building to accommodate the two additional apartments and the communal open space. As such the development continues to be substantially the same as the approved development approved via DA-333/2016, in that it will continue to incorporate a seven (7) storey residential development comprising eighty-nine (89) units above two (2) levels of basement car parking of comparable form and scale to the approved development. Furthermore, the modification can be considered substantially the same development given that it seeks; no changes to the approved building setback arrangements, visual separation distances, landscaping and deep soil zone, and of minimal environmental impact when having regard to case law set down by the Land and Environment Court.

It is anticipated that the development application will be notified to adjoining property owners and a discussion against the relevant planning controls is provided further in this statement.

## **STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

This SEPP came into effect on 1 October 2023 and incorporated the provision of the now repealed State Environmental Planning Policy (BASIX) 2004.

The Sustainable Building SEPP encourages the design and construction of more sustainable buildings across NSW. It applies to a range of development types, including residential and commercial developments.

Chapter 2 of the SEPP contains controls for the standards for residential development – BASIX noting that the application has been assessed and is accompanied by a complying BASIX certificate that demonstrates how the new proposed dwellings will utilise 40% less energy and water than a typical dwelling pre BASIX.



## STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

This SEPP contains provisions for the coastal area and also those that relate to the assessment of potentially hazardous and offensive development, along with addressing and remediating contaminated land. The following table identifies the relevant chapters that apply to this proposal.

Chapter Title	Applicable
<b>2 Coastal Management</b>	No
<b>3 Hazardous and offensive development</b>	No
<b>4 Remediation of land</b>	Yes

Chapter 4 of the SEPP contains a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

Given the historical use of the site for urban purposes, land contamination is not likely. Further investigation and reporting under Chapter 4 of the SEPP is not considered necessary given the residential use of the site and no indication of potentially contaminated materials on the site.

Potential contamination has been addressed via previous DAs.

## STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

This SEPP includes the framework to protect and manage the natural environment within NSW. It aims to establish a planning framework that through supporting the environment delivers community health, overall wellbeing, along with economic and cultural security. It addresses amongst other matters water catchments, waterways, and urban bushland.

It applies to a broad range of infrastructure with the table below identifying relevant chapters to this Development Application:

Chapter	Title	Applicable
<b>2</b>	<b><i>Vegetation in non-rural areas</i></b>	<b>Yes</b>
<b>3</b>	<b><i>Koala habitat Protection 2020</i></b>	<b>No</b>
<b>4</b>	<b><i>Koala habitat protection 2021</i></b>	<b>No</b>
<b>5</b>	<b><i>River Murray lands</i></b>	<b>No</b>
<b>6</b>	<b><i>Water catchments</i></b>	<b>Yes</b>
<b>13</b>	<b><i>Strategic conservation planning</i></b>	<b>No</b>

Chapter 2 of the SEPP contains planning rules and controls from the former Vegetation SEPP relating to the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application. This chapter seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

No changes to the approved landscape scheme under the approved DA.

## STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

The Transport and Infrastructure SEPP 2021 (TI SEPP) provides the framework for the planning and efficient delivery of infrastructure in NSW. It applies to a broad range of infrastructure with the table below identifying relevant chapters to this Development Application:

Chapter		Applicable
2	Infrastructure	Yes
3	Educational establishments and child care facilities	No
4	Major infrastructure corridors	No
5	Three Ports – Port Botany, Port Kembla and Port of Newcastle	No
6	Moorebank Freight Intermodal Precinct	No
Sched. 2	Railways, roads and associated projects – Chapter 2	No
Sched. 3	Traffic generating development to be referred to TfNSW – Chapter 2	No
Sched. 8	Design quality principles in schools – Chapter 3	No

Chapter 2 – contains planning rules and controls from the former Infrastructure SEPP for infrastructure in NSW, such as for hospitals, roads, railways, emergency services, water supply and electricity delivery.

This SEPP has been addressed via the approved DA, noting no change to the vehicular access arrangements are proposed in this modification.

## STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The Housing SEPP is relevant to the subject proposal, with consideration to be given to the following chapters:

- Chapter 2 Division 1 In-fill affordable housing
- Chapter 4 Design Quality of Residential Apartment Development
- Schedule 9 Design Quality Principles

Relevant chapters of the SEPP are addressed in the table below noting the assessment is focussed on the elements of the proposal that have been changed.

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
<b>15C Development to which division applies</b>		
1) This division applies to development that includes residential development if— <ul style="list-style-type: none"> <li>a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and</li> <li>b) the affordable housing component is at least 10%, and</li> <li>c) all or part of the development is carried out—               <ul style="list-style-type: none"> <li>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</li> <li>ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.</li> </ul> </li> </ul>	<p>Under Canterbury-Bankstown LEP 2023, shop top housing is permitted with consent within land identified as the R4 High Density Residential zoning.</p> <p>The proposal provides 15% of the total GFA as affordable housing.</p> <p>The subject site is within an accessible area, has been considered as part of original DA.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
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.	N/A	N/A

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
3) In this section— <i>relevant zone</i> means the following— a) Zone E1 Local Centre, b) Zone MU1 Mixed Use, c) Zone B1 Neighbourhood Centre, d) Zone B2 Local Centre, e) Zone B4 Mixed Use.	Noted	
<b>16 Affordable Housing Requirements for additional FSR</b>		
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).	The base FSR is 1.75:1.  The maximum permitted FSR is 2.275:1, representing an additional 30%.  15% or 1111 m <sup>2</sup> affordable housing is provided, which facilitates an additional 30% FSR.	Yes
2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—  AHC = Additional FSR (as a %) ÷ 2	Noted	Yes
3) 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).		Noted
4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	A FSR applies to the land.	Yes

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
17 Additional floor space ratio for relevant authorities and registered community housing providers	Not relevant to this proposal	N/A
18 Affordable housing requirements for additional building height	The proposal includes affordable housing. It therefore benefits from an additional 30% of building height. The current height is 19m under Canterbury-Bankstown LEP 2023, with an additional 30% taking the total maximum height to 24.7m. The development proposes a maximum height of 22.62m and therefore complies.	Yes
19 Non-discretionary development standards—the Act, s 4.15		
1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.	Noted	Noted
<p><b>Note—</b> 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>		
2) The following are non-discretionary development standards in relation to the residential development to which this division applies—		
a) a minimum site area of 450m <sup>2</sup> ,		
b) a minimum landscaped area that is the lesser of—	The site area is 3,193.81 m <sup>2</sup> and complies	Yes
i) 35m <sup>2</sup> per dwelling, or	No changes are proposed to the landscaping arrangements noting the development will provide 1016m <sup>2</sup> of landscaping and continues to comply.	N/A
ii) 30% of the site area,		
c) a deep soil zone on at least 15% of the site area, where—	No changes are proposed to the deep soil arrangements noting the development will provide 575m <sup>2</sup> of deep soil and continues to comply.	N/A
i) each deep soil zone has minimum dimensions of 3m, and		
ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,		



**Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)**

Clause	Comment	Compliance																								
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,	Continues to comply.	Yes																								
e) the following number of parking spaces for dwellings used for affordable housing—	The proposal provides parking which complies with the SEPP minimum requirement. apartments are proposed, with a mix of 12 x 2 bedroom and 2 X 1 bedroom and this equates to 4 spaces. The table below shows compliance with minimum rates within the SEPP.	Yes																								
i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,																										
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,																										
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,																										
	<table> <tr> <th>Affordable Units</th><th>SEPP Rate (minimum)</th><th>Required Spaces</th></tr> <tr> <td>2 x bedroom</td><td>1 0.4 spaces / unit</td><td>0.8(1)</td></tr> <tr> <td>12 x bedroom</td><td>2 0.5 spaces / unit</td><td>6</td></tr> <tr> <th colspan="3">Market Units</th></tr> <tr> <td>17 x bedroom</td><td>1 0.5 spaces / unit</td><td>8.5 (9)</td></tr> <tr> <td>55 x bedroom</td><td>2 1 space / unit</td><td>55</td></tr> <tr> <td>2 x bedroom</td><td>3 1.5 spaces/ unit</td><td>3</td></tr> <tr> <td colspan="2">TOTAL</td><td>74 spaces required 139 spaces provided</td></tr> </table>	Affordable Units	SEPP Rate (minimum)	Required Spaces	2 x bedroom	1 0.4 spaces / unit	0.8(1)	12 x bedroom	2 0.5 spaces / unit	6	Market Units			17 x bedroom	1 0.5 spaces / unit	8.5 (9)	55 x bedroom	2 1 space / unit	55	2 x bedroom	3 1.5 spaces/ unit	3	TOTAL		74 spaces required 139 spaces provided	
Affordable Units	SEPP Rate (minimum)	Required Spaces																								
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55 x bedroom	2 1 space / unit	55																								
2 x bedroom	3 1.5 spaces/ unit	3																								
TOTAL		74 spaces required 139 spaces provided																								
g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Complies within minimum internal apartment areas of ADG.	Yes																								
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,	Not relevant to this proposal	N/A																								
i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—	Not relevant to this proposal	N/A																								
i) for each dwelling containing 1 bedroom—65m <sup>2</sup> ,																										

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
ii) for each dwelling containing 2 bedrooms—90m <sup>2</sup> , iii) for each dwelling containing at least 3 bedrooms—115m <sup>2</sup> plus 12m <sup>2</sup> for each bedroom in addition to 3 bedrooms. 3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Noted	Noted
<b>20 Design requirements</b>		
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— 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 proposal is a modification to an approved Development Application. No changes are proposed to the approved setbacks. This ensures that the proposal is consistent with the desirable elements of the local area, along with any future change within the precinct.	Yes
<b>21 Must be used for affordable housing for at least 15 years</b>		
1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and b) the affordable housing component will be managed by a registered community housing provider.	This clause will be satisfied through the imposition of a condition of consent requiring the registration of a restrictive covenant on the title of the affordable housing lots for the required period. The restrictive covenant must: a. be on terms acceptable to Council; b. identify the Council as the benefitted party; and c. clearly nominate that the restrictive covenant may not be varied or removed from the title without the consent of the Council.	Yes

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	Noted.	Noted
<b>22 Subdivision permitted with consent</b>  Land on which development has been carried out under this division may be subdivided with development consent.	Subdivision will form part of a future development application however it is noted that the proposal involves a stratum subdivision which is permitted.	Yes

Housing SEPP 2021 (Chapter 4 Design of Residential Apartment Development)		
Clause	Comment	Compliance
<b>144 Application of chapter</b>		
1) In this policy, development to which this chapter applies is referred to as residential apartment development.	Noted.	Noted
2) This chapter applies to the following— a) development for the purposes of residential flat buildings, b) development for the purposes of shop top housing, c) mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.	The proposed development residential flat building.	Noted
3) This chapter applies to development only if— a) the development consists of— i) the erection of a new building, or ii) the substantial redevelopment or substantial refurbishment of an existing building, or	The proposal adds another storey to an approved building along with other associated minor changes to the building.	Yes

Housing SEPP 2021 (Chapter 4 Design of Residential Apartment Development)		
Clause	Comment	Compliance
<ul style="list-style-type: none"> <li>iii) the conversion of an existing building, and</li> <li>b) the building is at least 3 storeys, not including underground car parking storeys, and</li> <li>c) the building contains at least 4 dwellings.</li> </ul>		
4) If particular development comprises development for the purposes specified in subsection (2) and development for other purposes, this chapter applies only to the part of the development for the purposes specified in subsection (2).	Assessment of the proposal against relevant provisions in Chapter 4 is included in this SEE, noting that this is restricted to non-discretionary development standards and the ADG. As noted above, the minor nature of this amending DA means that the chapter itself does not apply as per Cl.144 (3) of the Housing SEPP 2021.	Yes
5) This chapter does not apply to development that involves only a class 1a or 1b building within the meaning of the Building Code of Australia.	Noted	
6) To avoid doubt, development to which Chapter 2, Part 2, Division 1, 5 or 6 or Chapter 5 applies may also be residential apartment development under this chapter.		
<b>145 Referral to design review panel for development applications</b>	The proposal adds another storey to an approved building and has been considered as part of the initial assessment.	Yes
1) This section applies to a development application for residential apartment development, other than State significant development.		
2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development.		
3) This section does not apply if—		
a) a design review panel has not been constituted for the local		



Housing SEPP 2021 (Chapter 4 Design of Residential Apartment Development)		
Clause	Comment	Compliance
<p>government area in which the development will be carried out, or</p> <p>b) a competitive design process has been held.</p> <p>4) In this section—</p> <p><b>competitive design process</b> means a design competition held in accordance with the Design Competition Guidelines published by the Department in September 2023.</p>		
<p><b>146 Referral to design review panel for modification applications</b></p>	The original application was not referred to the design review panel.	Not applicable
<p><b>147 Determination of development applications and modification applications for residential apartment development</b></p> <p>1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—</p> <p>a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,</p> <p>b) the Apartment Design Guide,</p> <p>c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.</p>	<p>Council can determine the application noting that this proposal includes a statement that addresses the design quality principles of Schedule 9</p> <p>The proposal includes an assessment against the ADG which has informed its design response.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Noted</p>

Housing SEPP 2021 (Chapter 4 Design of Residential Apartment Development)		
Clause	Comment	Compliance
2) The 14-day period referred to in subsection (1)(c) does not increase or otherwise affect the period in which a development application or modification application must be determined by the consent authority.	Noted.	Noted
3) To avoid doubt, subsection (1)(b) does not require a consent authority to require compliance with design criteria specified in the Apartment Design Guide.	It is noted that numerical compliance is not required, so long as the proposal satisfies the objectives of the ADG. The proposal remains consistent with the ADG.	Noted
4) Subsection (1)(c) does not apply to State significant development.	Noted.	Noted
<b>148 Non-discretionary development standards for residential apartment development—the Act, s 4.15</b>		
1) <b>The object of this section is to identify development standards for particular matters relating to residential apartment development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</b>	Noted	Noted
<b>Note—</b> 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.		
2) The following are non-discretionary development standards—		
a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,	In-fill affordable housing complies parking requirements of with Cl.19 (2) (e). A total of 7 spaces are provided for the affordable component and 139 overall, inclusive of 17 visitor spaces and 13 accessible spaces,	Yes
b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,	Complies as shown in attached plans.	Yes
c) the ceiling heights for the building must be equal to, or greater than,	Complies as shown in attached plans.	Yes

Housing SEPP 2021 (Chapter 4 Design of Residential Apartment Development)		
Clause	Comment	Compliance
the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.		
<b>149 Apartment Design Guide prevails over development control plans</b>	<p>A DCP provision will have no effect, with the ADG taking precedent for the following:</p> <ul style="list-style-type: none"> <li>– visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage.</li> </ul> <p>It is noted that compliance in the ADG relates to achieving the objective of the design criteria, not strictly, numerical compliance.</p>	Noted

A description of compliance with the applicable development facets and guidelines such as setbacks, building heights etc. is provided in the local planning controls discussion and tables below. It is noted that this assessment is largely restricted to the proposed additions which relates to the in-fill affordable housing.

An assessment against the relevant objectives and design guidelines contained in Parts 3 and 4 of the Apartment Design Guide can be found below, noting that a number of these provisions are embodied within the Canterbury-Bankstown Local Environmental Plan 2023 and supporting Canterbury-Bankstown Development Control Plan 2023.

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
<b>Part 3 – Siting the Development</b>			
<b>3A Site Analysis</b>	Appendix 1 of the ADG	Provided	Yes
<b>3B Orientation</b>	Building to define the street, by facing it and incorporating direct access from the street	The proposed building will continue to address its frontage. No changes to approved orientation and access.	Yes
	Where an adjoining building does not currently receive 2 hours of sunlight in midwinter, solar access should not be further reduced by > 20%	Not applicable	N/A
	4 hours of solar access should be retained to solar collectors on neighbouring buildings	No changes.	N/A
<b>3C Public Domain Interface</b>	Terraces, balconies should have direct street entry, where appropriate	No change to the access arrangements to and from the site at the ground floor level.	N/A
	Mailboxes should be located in lobbies, perpendicular to the street alignment.	As per approved DA; no change.	N/A
	Substation, pump room, garbage storage rooms and other service rooms should be located in the basement carpark or out of view.	No change.	
<b>3D Communal and Public Open Space</b>	<u>Design Criteria:</u>  Communal open space has a minimum area equal to 25% of the site.  50% of the principal COS should receive 2 hours of sunlight between 9am and 3pm	Communal open space has increased with an inclusion of additional spaces within Level 6. The proposal continues to provide more than the required, equating to 27.08% or 865m <sup>2</sup> .	Yes



<u>Design Criteria:</u>			
	Minimum dimension of 3m	Complies	
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.	Complies	
	Communal open space and the public domain should be readily visible from habitable room and private open space areas while maintaining privacy.	Complies	
<b>3E Deep Soil Zones</b> <u>Design Criteria:</u>			
	A deep soil zone equivalent to 7% of the site must be provided.	No changes to the approved deep soil.	Yes
	If the site is between 650m <sup>2</sup> to 1500m <sup>2</sup> then the DSZ must have minimum dimension of 3m. If over 1,500m <sup>2</sup> then minimum dimension of 6m		
<b>3F Visual Privacy</b>			
<b>Buildings separation up to 4 storeys (up to 12m)</b>	12m between habitable rooms (6m) 6m between non-habitable rooms (3m)	No changes are proposed.	N/A
<b>Building separation between 5-8 storey (up to 25m)</b>	18m between habitable rooms (9m) 9m between non-habitable rooms (4.5m)		
<b>3G Pedestrian Access and Entries</b>	Buildings entries should be clearly identified, and communal entries should be clearly distinguished from private areas.	No change.	N/A

3H Vehicle Access	Car park access should be integrated with the building's overall façade	No changes. Vehicle access point to the basement level is integrated with the proposed building's overall façade.	Yes
	Car park entry and access should be located on secondary streets or lanes where available	No changes.	Yes
	Garbage collection, loading and servicing areas are screened	No changes.	Yes
3J Carparking	<p><u>Design Criteria:</u> Carparking for sites within 800m of a railway station or light rail stop can provide parking at the rate of: &gt;20 units <u>Metropolitan Sub-Regional Centres:</u> 0.6 spaces per 1 bedroom unit. 0.9 spaces per 2 bedroom unit. 1.40 spaces per 3 bedroom unit. 1 space per 5 units (visitor parking)</p> <p><u>Design Guidelines:</u> Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.</p>	The development is pursuant to the State Environmental Planning Policy (SEPP) (Housing) 2021 (Chapter 2 Affordable Housing).	N/A
Part 4 – Designing the Building			
4A Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter	No changes from the approved solar access received, noting the two additional apartments complies within this provision. Continues to comply.	Yes

	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Continues to comply	Yes
<b>4B Natural ventilation</b>	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	Continues to comply.	No Change
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Complies.	Yes
<b>4D Unit Sizes</b>			
<b>Studio</b>	<u>Design Criteria:</u> 35m <sup>2</sup>	All units continue to comply, see attached plans for detail.	Yes
<b>1 bed</b>	50m <sup>2</sup>		
<b>2 bed</b>	70m <sup>2</sup>		
<b>3 bed</b>	90m <sup>2</sup>		
<b>+ 5m<sup>2</sup> for each unit with more than 1 bathroom.</b>	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10%	Every habitable room is provided with a window.	Yes
<b>Habitable Room Depths</b>	<u>Design Guidelines:</u> Limited to 2.5m x Ceiling Height	Open plan apartments are provided.	Yes
<b>Bedroom sizes</b>	10m <sup>2</sup>	All units are complying.	Yes
<b>Master</b>	9m <sup>2</sup>		
<b>Other</b>			
<b>Living rooms/dining areas have a minimum width of:</b>	Studio/1 br	Complies. Complies.	Yes Yes
<b>3.6m</b>	2br/ 3br		
<b>4m</b>	8m to a window		
<b>Open Plan Layouts that include a living, dining room and kitchen.</b>		Complies given unit depths and design layouts.	Yes

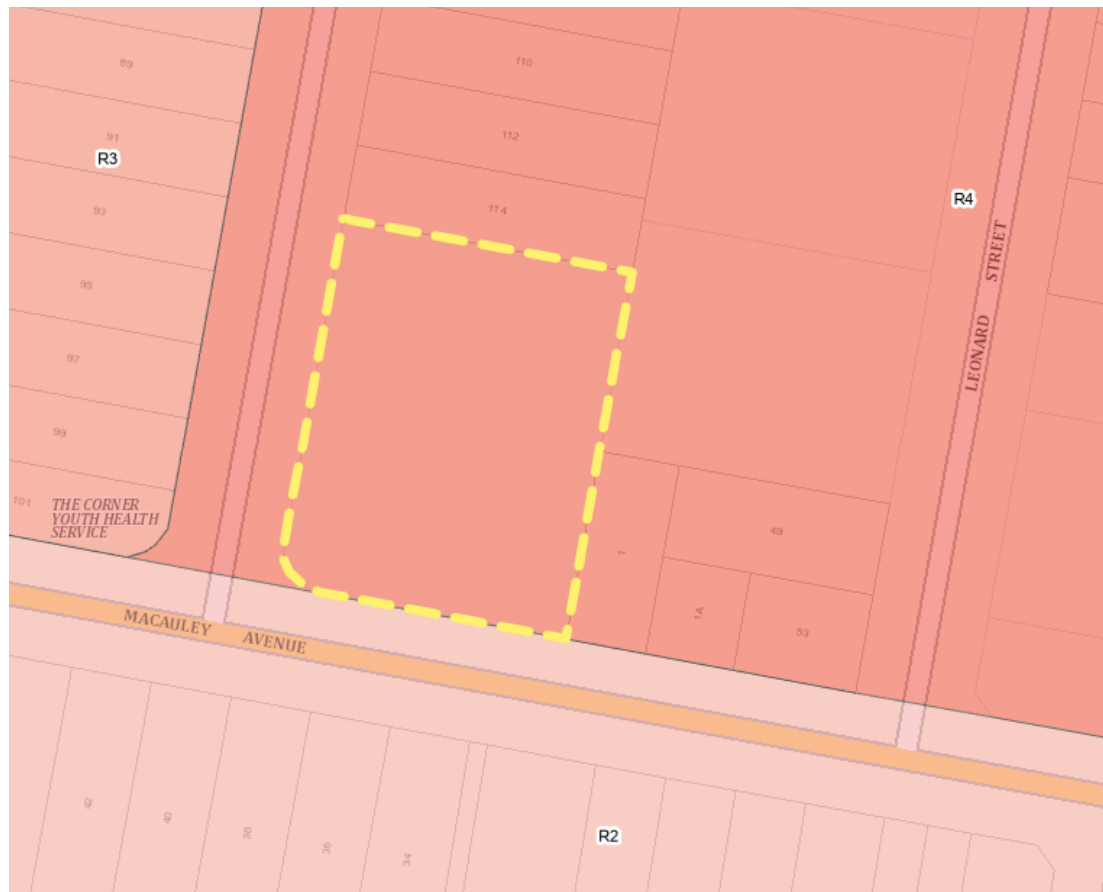
<b>4E Private Open Space</b>			
	<u>Design Criteria:</u>		
<b>Balcony Sizes</b>	4m <sup>2</sup>		
<b>Studio</b>	8m <sup>2</sup> & 2m depth	Complies	Yes
<b>1 bed</b>	10m <sup>2</sup> & 2m depth	Complies	Yes
<b>2 bed</b>	12m <sup>2</sup> & 2.4m depth	Complies	Yes
<b>3 bed</b>			
	15m <sup>2</sup> & 3m depth	Complies	Yes
<b>Ground level/ podium apartments</b>			
<b>4K Apartment Mix 7</b>	A variety of apartment types is provided	A diversity of apartments is proposed as follows: <ul style="list-style-type: none"> <li>o 1 x studio</li> <li>o 19 x 1 bedroom unit</li> <li>o 67 x 2 bedroom unit</li> <li>o 2 x 3 bedroom unit.</li> </ul>	
<b>4M Facades</b>	Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale	<p>The proposed facades are well articulated with a mixture of vertical and horizontal features including windows, projecting walls and balconies and framed elements.</p> <p>Overall the proposed facade is considered a quality design outcome that is compatible with other comparable modern mixed use buildings within the redevelopment corridor and the wider LGA.</p>	



## CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

As shown on the zoning map extract on the following page the development site is zoned B6 Enterprise Corridor under the provisions of Canterbury-Bankstown Local Environmental Plan 2023.

Figure 3: Zoning Map Extract (Source: NSW Planning Portal).



 - Development Site

*Residential Flat Buildings* remain permissible with consent within the subject site and the proposal is consistent with the definition contained within the LEP.

The objectives of the R4 zone are detailed below:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*



- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To allow for increased residential density in accessible locations to maximise public transport patronage and encourage walking and cycling.
- To promote a high standard of urban design and local amenity.

The modification remains consistent with the objectives of the R4 zone, by continuing to provide a residential flat building which will provide a variety of housing types and contribute towards increasing the housing stock of Bankstown, whilst being consistent with the high density character of the subject area.

The table below provides detail on the development standards relevant to the current proposal as well as other relevant LEP provisions noting that given the proposal is for a MOD only those of relevance are addressed in the table below.

Canterbury-Bankstown Local Environmental Plan 2023				
Clause	Controls		Comment	Complies
<b>Zoning</b>	R4	High Residential	Density Development for the purposes of 'Residential Flat Buildings' is permissible with Council consent in the R4 High Density Residential zone.	YES
Part 2 Permitted or Prohibited Development				
<b>2.3</b>	Zone Objectives and Land Use Table		The modification remains consistent with the objectives of the R4 zone, by continuing to provide a residential flat building which will provide a variety of housing types and contribute towards increasing the housing stock of Bankstown, whilst being consistent with the high density character of the subject area.	YES
<b>2.6</b>	Subdivision Requirements	– Consent	N/A.	N/A
<b>2.7</b>	Demolition Consent	Requires	No change to existing DA.	N/A

#### Part 4 Principal Development Standards

<b>4.1B</b>	Minimum Lot Size and Special Provisions for certain dwellings	Addressed via approved DA.	YES
<b>4.3</b>	Height of Buildings: 19m	The proposed development will exceed the permissible height of 19m prescribed under the Canterbury-Bankstown Local Environmental Plan 2023. As described above, the Housing SEPP provides a bonus of 30% to the maximum Building Height which therefore permits a maximum building height of 24.7m. Therefore, the proposed building height of 22.62m is compliant	Housing SEPP Bonus Applies
<b>4.4</b>	Floor Space Ratio:1.75	The proposed development will exceed the permissible FSR of 1.75:1 prescribed under the Canterbury-Bankstown Local Environmental Plan 2023. As described above, the Housing SEPP provides a bonus of 30% to the FSR which therefore permits a FSR of 2.275:1. Therefore, the proposed FSR of 2.275:1 is compliant	Housing SEPP Bonus Applies

#### Part 5 Miscellaneous Provisions

<b>5.10</b>	Heritage Conservation	Heritage conservation has been addressed as part of the approved DA.	N/A
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#### Part 6 Additional Local provisions

<b>6.1</b>	Acid Sulfate Soils	Addressed via approved DA.	N/A
<b>6.2</b>	Earthworks	This application seeks Council consent for the excavation of the site as per the attached plans. It is considered that the proposed excavation, particularly for the basement car parking area will have minimal adverse environmental or amenity impact. The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.	YES

The proposal will not adversely affect or disrupt drainage and flood patterns, flood storage or soil stability in the area.

The proposed excavation is consistent with the current and future use of the land and will develop the site into context with its surrounds and in accordance with Councils current and proposed planning strategies.

It is considered unlikely due to the location of the site as well as previous development that excavation will lead to the disturbance of relics.

<b>6.3</b>	Stormwater Management and Water Sensitive Urban Design	No changes proposed as part of this modification. The modified proposal will continue to meet the requirements of this clause.	Yes
<b>6.7</b>	Aircraft Noise	No change to existing DA.	N/A

## CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN 2023

### CHAPTER 2: SITE CONSIDERATIONS

All relevant Council controls have been considered in the following compliance table noting the nature of the amendments mean a substantive number of provisions are not relevant to the proposal.

Canterbury-Bankstown Development Control Plan 2023 – Chapter 2: General Controls		
Controls	Comment	Complies
<b>2.1 Site Analysis</b>		
	This has been addressed via the approved DA.	N/A
<b>2.2 Flood Risk Assessment</b>		
	This has been addressed via the approved DA.	N/A
<b>2.3 Tree Management</b>		
	This has been addressed via the approved DA. No changes to tree management are proposed.	N/A

## CHAPTER 3: GENERAL REQUIREMENTS

All relevant Council controls have been considered in the following compliance table.

Canterbury-Bankstown Development Control Plan 2023 – Chapter 3: General Requirements		
Controls	Comment	Complies
<b>3.1 Development Engineering Standards</b>		
	No changes are proposed to the approved stormwater arrangements.	Yes
<b>3.2 Parking</b>		
<b>Off-street parking rates Residential Flat Buildings</b>	No changes to approved car parking spaces in terms of the quantum of parking.	Yes
1 bedroom dwelling/studio – 1 spaces x 19 = 19		
2 bedroom dwelling: 1.2 spaces x 67 = 80.4		
3 bedroom dwelling: 1.5 spaces x 1 = 1.5		
Visitor: 1 space per 5 units x 87 = 17.4		
Total: 118.3 required		
<b>Design and Layout</b>	The car parking area including parking spaces and aisles have been designed in accordance with Council controls.	N/A
<b>3.3 Waste Management</b>		
	Minor change to the existing waste management arrangements to facilitate the required bins.	Yes
<b>3.4 Sustainable Development</b>		
	The development proposes a Residential Flat Building, which is not a classification of Class 5 to Class 9 under the Building Code of Australia.	N/A
<b>3.5 Subdivision</b>		
	No subdivision is proposed.	N/A
<b>3.6 Signs</b>		
	No signage is proposed.	N/A



### 3.7 Landscape

The development continues to provide landscaping embellishing work that will improve and enhance the subject site. Landscaping of the site is to be undertaken in accordance with Council controls as per the attached Landscape Plan.

Yes

## CHAPTER 5: RESIDENTIAL ACCOMMODATION

All relevant Council controls have been considered in the following compliance table.

Canterbury-Bankstown Development Control Plan 2023 – Chapter 5: Residential Accommodation		
Controls	Comment	Complies
<b>5.1 Former Bankstown LGA - Section 8 – Residential Flat Buildings and Shop Top Housing in Zone R4</b>		
<b>8.1 – Isolation of allotments</b>	Addressed via approved DA.	N/A
<b>8.2 – Storey limit</b>	As the Housing SEPP permits a maximum building height of 24.7m therefore a building of 7 storeys is permissible and continues to comply.	Housing SEPP
<b>8.3 – Topography</b>	Addressed via approved DA.	N/A
<b>8.4 – Fill</b>	Addressed via approved DA.	N/A
<b>8.6(a) – Setbacks to the primary and secondary frontages</b>	Addressed via approved DA. No changes proposed.	N/A
<b>8.6(b) – Setbacks to the primary and secondary frontages to be 6m</b>	Addressed via approved DA. No changes proposed.	N/A
<b>8.7 – Setbacks to the side and rear boundaries for a 2 storey building.</b>	Not applicable.	N/A
<b>8.8 – Setbacks to the side and rear boundaries are to be a minimum of 4.5m</b>	Addressed via approved DA. No changes proposed.	N/A
<b>8.9 – Setbacks to the side and rear boundaries</b>	Addressed via approved DA. No changes proposed.	N/A
<b>8.10 – Setbacks to the side and rear boundaries from the basement is to be 2m</b>	Addressed via approved DA. No changes proposed.	N/A
<b>8.11 – Setbacks to the side and rear boundaries</b>	Addressed via approved DA. No changes proposed.	N/A
<b>8.12 – Private open space</b>	The two additional balconies associated with the 2 new apartments are consistent with the approved design.	Yes

<b>8.13 – Building design - ADG</b>	The development continues to comply with the ADG. See the earlier assessment table for details.	YES
<b>8.14 – Building design – Demolition</b>	Addressed via approved DA. No changes proposed.	N/A
<b>8.15 – Roof Pitch</b>	The modification continues to incorporate a modern flat roof design and as such is compliant.	YES
<b>8.16 – Attics</b>	Not applicable.	N/A
<b>8.17 – Dormers</b>	Not applicable.	N/A
<b>8.18 – Building design – 4 storey buildings with attics</b>	Not applicable.	NA
<b>8.19 – Roof top balconies</b>	The development does not propose any roof top balconies or equivalent.	NA
<b>8.20 – Roof top plant</b>	All ancillary features such as the lift overrun, etc. have been appropriately incorporated into the design of the proposed RFB. See attached plans for detail.	YES
<b>8.21 – Building design (car parking)</b>	All car parking is to be provided within a basement arrangement. No car parking spaces are provided within the front building line.	YES
<b>8.22 – Landscaping</b>	The modification continues to provide landscaping embellishing work that will improve and enhance the subject site. Landscaping of the site is to be undertaken in accordance with Council controls as per the attached Landscape Plan.	YES
<b>8.23(a) – Landscaping</b>	The development continues to comply with this control.  Landscaping of the site is to be undertaken in accordance with Council controls as per the attached Landscape Plan.	YES
<b>8.24(a) – (f) – Security</b>	The modification continues to incorporate appropriate measures including built elements, landscaping and design features that will enhance casual surveillance of both Restwell and Macauley Streets as well as internal areas and are consistent with CPTED principles.	YES

## CHAPTER 6: STRATEGIC CENTRES

### 6.2 – Bankstown City Centre

This part of the DCP only applies to the Northern CBD Core, Southern CBD Core and Bankstown City Plaza precincts. While the site is identified as one of the Bankstown CBD precincts it falls within the 'Southern Frame' and as such the DCP does not apply. Notwithstanding it is noted that the proposal is consistent with the overall objectives of the DCP and will lead to additional high quality housing supply within close proximity of the Bankstown town centre and train station.

## CONCLUSION

It is concluded that following a review of the relevant planning controls, the proposed modification application is an appropriate outcome on site and remains consistent with the design intent of the original proposal.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the modification including the amendment of relevant conditions referencing the approved plans for the development.