



Section 4.55 (2)

Modification Application (Revised)

1108-1110 Canterbury Road, Roselands



Submitted to: Canterbury Bankstown Council
On behalf of: FLDC
Date: August 2025

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1. INTRODUCTION

This Planning Statement has been prepared by BMA Urban Pty Ltd on behalf of FLDC (**the applicant**) to support a modification application under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**). The application seeks to modify the approved development at 1108-1110 Canterbury Road, Roselands (**the site**) (**DA-294/2023**) dated 4 July 2023.

On 4 July 2023, Canterbury Bankstown Council approved '**alterations and additions**' to the existing commercial premises and a change of use to a 'food and drink premises'.

The purpose of this report is to describe the proposed amendments, review the applicable planning regime relating to the proposal, assess the degree of compliance and examine the environmental effects of the development when measured against the relevant requirements of the Environmental Planning and Assessment Act, 1979.

This report has been prepared in association with a series of architectural plans prepared by FLDC. It is considered that the proposed modifications result in substantially the same development and do not result in adverse environmental impacts materially over and above that which were originally approved by Canterbury Bankstown Council on 4 July 2023.

2. SITE DESCRIPTION

2.1 The Site

The site is located on the southern side of Canterbury Road comprising of a street frontage width of 7.65m, inclusive of a 2.135m splay and 34.915m frontage to Stephenson Street. A rear boundary width of 7.8m is observed to Dunlop Lane alongside a 2.35m splay that returns along Stephenson Street.

The site observes an overall area of 460m².

Figure 1 below is a base map that provides a clearer appreciation of the of the site within its immediate context.

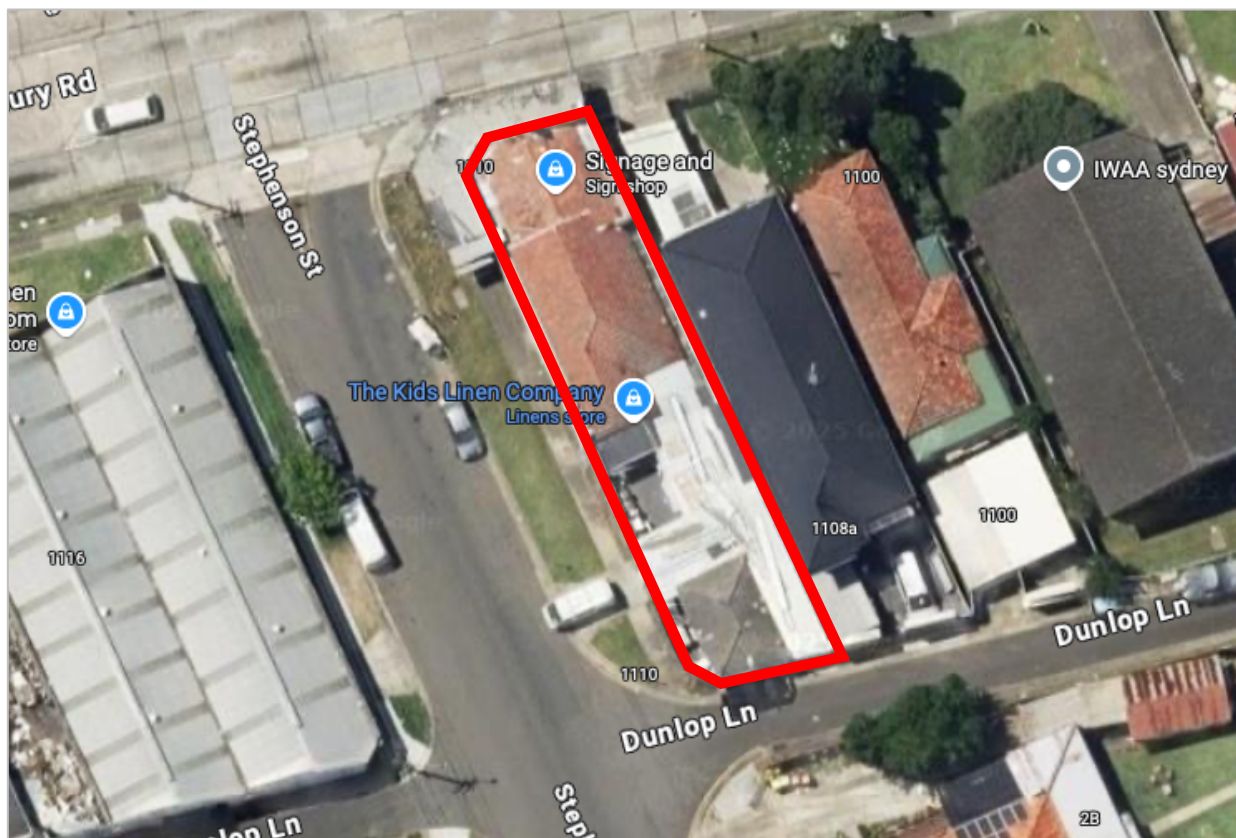


Figure 1: Location Plan

Source: Six Maps

Subject site

2.2 Surrounding Context

The site is located across a context that displays a mix of development forms including commercial and industrial premises interspersed with low to medium rise residential.

The site shares a direct interface with a two (2) storey dwelling to its east and is separated from all other development by way of the three (3) public roadway frontages.

3. BACKGROUND

3.1. Approval History

3.1.1 DA2023/0294

Alterations and additions to existing commercial premises and change of use to a food and drink premises was approved by way of delegated authority on 7 July 2023.

4.1 Modification Objectives

The underlying objectives of the proposed modifications are for the purpose of:

- Provision of improved levels of building functionality; and
- Improved building street presentation.

4.2 OVERVIEW OF THE PROPOSED MODIFICATIONS

This modification request has been made under Section 4.55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*. The modifications are itemised below as they are represented on the accompanying architectural plan detail set prepared by FLDC. A summary of amendments forming part of this modification request are detailed below:

Ground Floor Plan

- Reconfiguration of the ground floor plate providing for a more functional and orderly premises layout; and
- Provision of internal stairs and lift enabling access to the proposed first floor.

First Floor Plan

- Provision of a new office/storeroom area; and
- Lift and stair access.

Both the existing **'approved'** and proposed ground and first floor layout are reproduced below for reference.

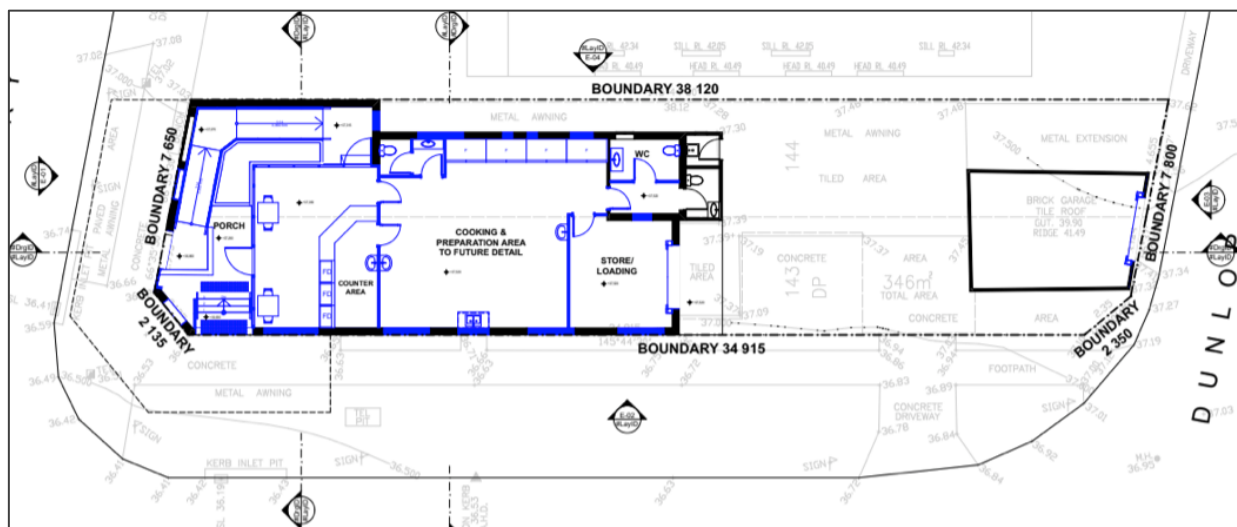


Figure 2: Ground floor plan (approved)

Source: FLDC.

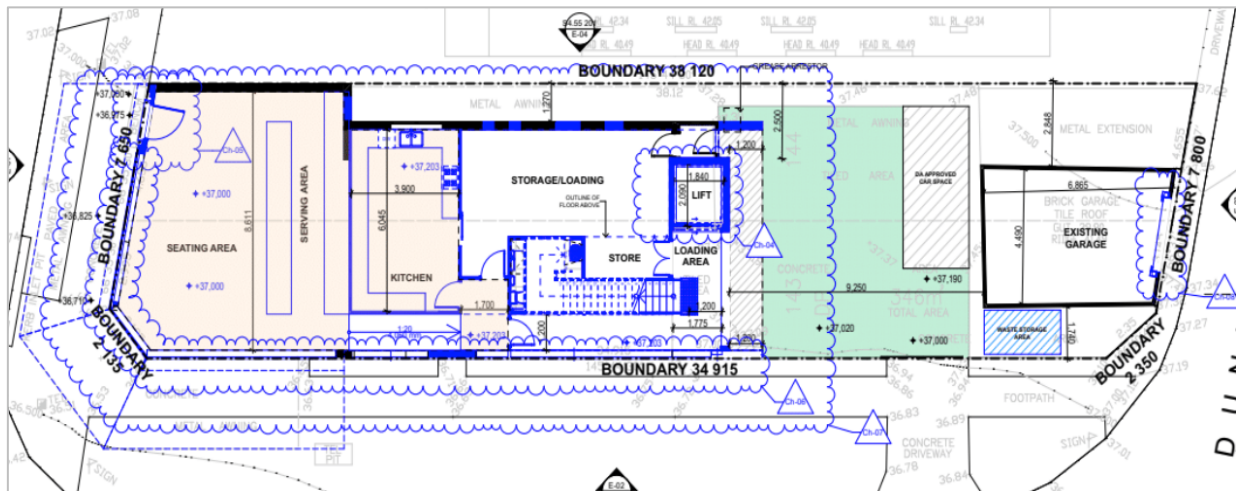


Figure 3: Ground floor plan (proposed)

Source: FLDC

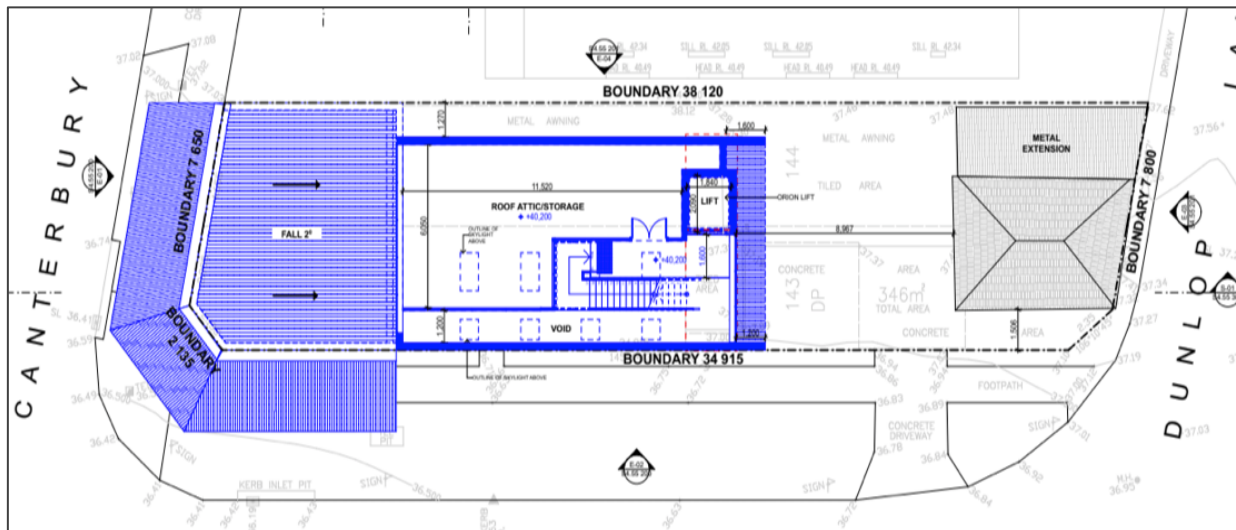


Figure 4: First floor plan (proposed)

Source: FLDC

5. CONDITIONS

5.1 Amended Conditions

This section of the report outlines the proposed replacement and/or rewording of the conditions of consent imposed by Council in accordance with the modifications outlined in Section 3.

- Modify condition 1 (*Approved plans and supporting documentation*) to refer to the amended set of architectural plans provided.

6. STATUTORY PLANNING FRAMEWORK

6.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principal planning and development legislation in New South Wales. The modifications sought to Development Consent DA 0294/2023 warrants consideration of the provisions of Section 4.55 (2) of the EP&A Act. The provisions of Section 4.55(2) of the EP&A Act have been considered and addressed in Table 1.

Table 1: Section 4.55(2) Assessment

Clause	Response
(2) 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 development consent if--	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The proposed modification will result in the same ultimate development outcome to that previously approved. Section 6.1.1 of this statement demonstrates that the development as modified would result in substantially the same development as the development for which consent was granted under DA 0294/2023
(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	Not applicable.
(c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, and (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	It is anticipated that the subject modification application will be appropriately notified to surrounding properties.

(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.	It is acknowledged that Council must consider any submissions received, concerning the proposed modifications. The applicant is willing to address any submissions should they be received by Council during the notification period.
(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.	The proposed modifications are consistent with the matters referred to in Section 4.15(1) of the EP&A Act. Refer to Section 6.1.2 of this statement.

6.1.1 Section 4.55(2) – Substantially the same

The NSW Land and Environment Court has established several precedents as to what may be considered as being substantially the same development, and what should be factored into the consideration of this threshold test.

The scope of a maximum modification of a consent without constituting assessment as a standalone application can be analysed through the ambit of *Michael Standley & Associates Pty Ltd v North Sydney Council* [2005] NSWLEC 358, whereupon Commissioner Mason P. found in relation to modification of development consents that the word “modify” was given the ordinary meaning of “to alter without radical transformation”. Therefore, the extent to which a consent may be modified is that to which the consent, as modified, is as approved without radical transformation or alteration.

The development, as modified, is substantially the same development and will not result in a radical transformation of **DA 0294/2023** for the following reasons:

- The modification remains the approved primary land use as a **‘Food and Drink Premises’** and proposes no substantial change to this fundamental element of the approval.
- While the modification involves a first floor addition and minor external changes are proposed, they are not of a scale or nature that are anticipated to result in any adverse visual or amenity impacts on the subject site and or the surrounding properties.
- The function, form, operations and importantly, public perception of the subject site, as a **‘Food and Drink Premises’** development remains largely unchanged, with the reconfigurations retaining the original intent of the development as approved.

In light of the above, the proposal as amended, is not considered to result in a “radical transformation” of the consent, as currently approved, satisfying the radical transformation test pursuant to *Michael Standley & Associates Pty Ltd v North Sydney Council* [2005] NSWLEC 358.

Whilst the proposal seeks to modify the design of the approved development, the modifications are not considered to be material or essential elements of the approved development which would constitute a radical change to the ultimate development outcome of the subject site. This is further analysed in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* which applies a quantitative and qualitative test to determine what qualifies a development as being “substantially the same”.

Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280 provides that a comparison of the development as approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development. The comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted). Whilst it is acknowledged that the proposal does include some quantitative changes to the approved development, these are not considered to be substantial or comprise a critical element of the development. Further, from a qualitative perspective, the development retains its identity as a ‘**food and drink premises**’.

The extent of generated height and scale while increased relative to the roof attic/storage, is deemed to represent an appropriate response to the context and in doing so, will not identify as an unreasonable contribution to the bulk and or scale of the development.

Qualitatively, the façade changes proposed across the building are deemed a positive outcome that would sympathetically contribute to the street character. The façade improvements serve to further define the elevations without the imposition of any adverse level of resulting built form volume.

In addition, when considering the “substantially **“the same as approved”** threshold, we have considered the Land and Environmental Court Case *Marana Developments Pty Limited v Botany City Council [2011] NSWLEC 1237*, which involved an increase in proposed apartments from 76 to 102, an additional level of basement car parking and changes to internal layouts inclusive of changes to the external presentation of the building. This decision set a precedent for the level of expansion and alterations within a Section 4.55 application. The proposed modifications are considerably less than those worthy of approval in the circumstances of this case.

As the proposed amendment does not alter the overarching fundamental characteristics of the original approval, the proposal is appropriately categorised as being “substantially the same” as required by Section 4.55(2) of the EP&A Act.

6.1.2 Section 4.15 – Reasons given by the consent authority for the grant of the consent

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **Table 2** below.

Table 2 Section 4.15(1)(A) Considerations	
Section	Response
Section 4.15(1) (a)(i) any environmental planning instrument, and	Refer to Part 6.2 of this SEE.
Section 4.15(1) (a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	There are no applicable draft instruments for consideration.
Section 4.15 (1)(a)(iia) and planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	There are no applicable planning agreements relevant for consideration.
Section 4.15 (1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	There are no matters prescribed by the regulation that are relevant to the proposal.
Section 4.15 (1)(b)-(c) (e)	Refer to Section 8 of this Statement.

6.2 State Environmental Planning Policies

6.2.1 State Environmental Planning Policies (Resilience and Hazards 2021)

The purpose of State Environmental Planning Policy (Resilience and Hazards) 2021 is to ensure that land which is contaminated is identified and appropriately remediated so as to be suitable for the proposed development. Clause 4.6 (1) of this SEPP states:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

The proposed modifications would not alter any of the previous conclusions drawn with respect to land contamination. It is considered that the modifications will not alter the site is consistent with the requirements of the SEPP and the site will continue remain suitable for the proposed land use.

6.2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

Chapter 2 of this state policy applies to the non-rural areas of the State inclusive of the subject local government area and aims to (a) *protect the biodiversity values of trees and other vegetation in non-rural areas of the State* and (b) *preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation*. The modifications do not necessitate the removal of any significant trees and or other significant vegetation, nor is it likely to indirectly impact trees and other vegetation in the vicinity of the site.

6.3 LOCAL ENVIRONMENTAL PLANS

6.2.1 Canterbury Bankstown Local Environmental Plan 2023

The Canterbury Bankstown Local Environmental Plan 2023 ('Canterbury Bankstown LEP') applies to the subject site which is identified as being within the 'R3- Medium Density Residential Zone'. The proposed modifications do not alter the classification of the development which remains defined as a "**Food and Drink Premises**". The premises remains permissible as part of the active consent (DA-294/2023) dated 4 July 2023 and Clause 28 (Schedule 1) of the CLEP 2023.

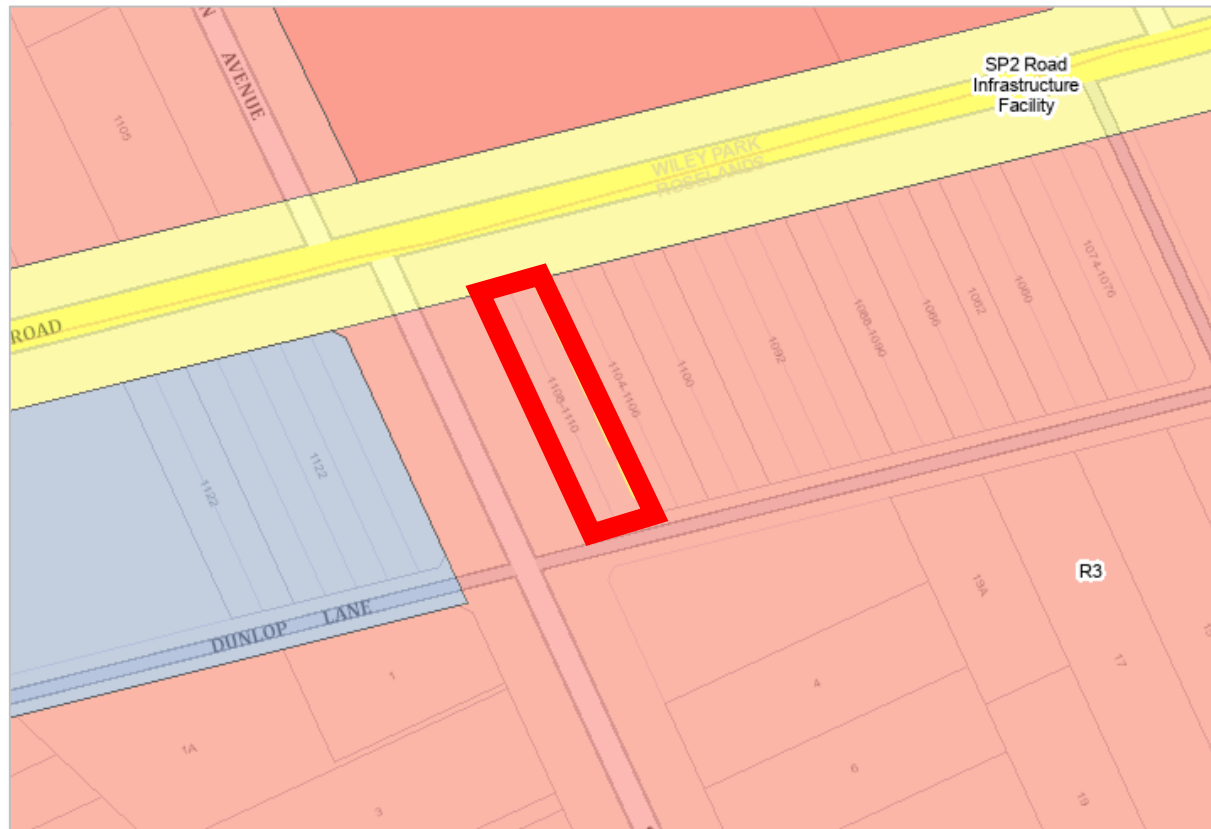


Figure 4: Zoning Map
Source: CBLEP 2023

Subject site 

The objectives of the R3 Zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow for certain non-residential uses that are compatible with residential uses and do not adversely affect the living environment or amenity of the area.
- To allow for development that provides a suitable visual transition between high density residential areas and low density residential areas.

- To ensure suitable landscaping in the medium density residential environment.
- 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 proposed modifications will not adversely compromise on the ability for the development (**as modified**) to remain consistent with the objectives for the zone noting its reliance on the 'active' development approval of DA-294/2023.

Clause	Provision	Proposed	Complies
2.5 Additional Permitted Uses	Schedule 1 – Additional Permitted Uses = <u>Clause 28</u> (1) This clause applies to land identified as "Area 2" on the Clause Application Map that is in the following zones— (a) Zone R2, (b) Zone R3, (c) Zone R4. (2) This clause does not apply to land to which clause 2 applies. (3) Development for the purposes of business premises, office premises, restaurants or cafes and shops is permitted with development consent, if— (a) the development is in, or will replace, a building that was, at the time of its erection, designed, constructed and used for the purpose of a shop, with or without a dwelling, and (b) the gross floor area of the building will not exceed 100m².	The site is located in Area 2 and in doing so restaurants and or cafes (Food and Drink Premises) are permissible. As established by way of (DA-294/2023), storage spaces were not deemed to contribute to the gross floor area of the building. Furthermore, in accordance with the LEP definition, Attic spaces that do not include a habitable space and or shop, auditorium and or cinema, are not deemed to present as calculable GFA. In this regard, the calculable gross floor area will not exceed 100m².	Yes
4.3 Height of Building's	8.5m	8.5m	Yes

4.4 Floor Space Ratio	0.5:1	0.5:1	Yes
6.2 Earthworks	Mitigation of any detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land	The proposed modifications do not propose any substantive level of excavation and or general earthwork.	Yes
6.3 Stormwater Management	Broad scope of requirements	Remains consistent with approved.	Yes
6.9 Essential Services	Development consent must not be granted to development unless the consent authority is satisfied that the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required— (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) waste management, (f) suitable vehicular access.	Adequate services are currently provided and if required, can be further upgraded.	Yes

6.4 DEVELOPMENT CONTROLS PLANS

6.4.1 Canterbury Bankstown Development Control Plan 2023

The modifications are subject to the provisions of the Canterbury Bankstown DCP 2023. Where the modifications are proposed to be carried out outside of the established envelope, they are carried out in a manner that does not unreasonably add to the volume of the development and in the absence of any additional adverse amenity impacts.

Apart from the generic DCP requirements, the most relevant controls pertaining to this form of development would be found in Chapter 10.4 of the DCP pertaining to Non-Residential land uses in residential zones. More specifically, Section 3 – Neighborhood shops are deemed to represent the most comparable development form.

Chapter 2: Site Considerations

Item	Response
2.3 Tree Management	The modification does not necessitate the removal of any trees and or vegetation from the site.

Chapter 3: General Requirements

Chapter 3.1 - DEVELOPMENT ENGINEERING REQUIREMENTS

Section 3- Stormwater drainage systems

01 To establish a high standard of stormwater drainage infrastructure within the site. 02 To ensure that the proposed and constructed stormwater drainage system do not adversely impact on Council's stormwater drainage system, the development itself and adjoining sites. 03 To ensure that buildings are not affected by inundation from stormwater runoff resulting from the 100-year ARI storm event.	<u>Development impacted by stormwater systems</u> Applicants must apply to Council for a Stormwater System Report (SSR), prior to DA submission, if the site is noted on Council's SSR register as affected by Council's stormwater drainage pipelines and/or affected by potential local stormwater flooding. The development must be designed to consider the recommendations of the SSR and satisfy the requirements of this DCP.	Not applicable
	<u>Disposal of stormwater runoff</u> Site stormwater drainage systems should be designed to flow under gravity, and be	Complies The proposal is being connected to the existing site drainage system.

O4 To ensure that any proposed stormwater drainage works are designed to minimise any nuisance caused by stormwater drainage flows from local catchment flooding or mainstream flooding from rivers. O5 To manage stormwater runoff and prevent damage to buildings and property and reduce hazardous flows. O6 To avoid the location of stormwater drainage infrastructure within tree driplines and deep soil zones. O7 To give special consideration to development requiring the submission of BASIX Certificate where the use of rainwater storage tanks fitted into stormwater drainage systems may supplement the domestic water supply.	connected to Council's stormwater drainage system at the nearest suitable location or CDL benefiting the site. Site drainage design should follow the natural fall of the catchment to a pipeline connection point that has been designed for the runoff.	
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Chapter 3.2 – PARKING

Section 2- Off Street Parking Rates

O1 To ensure development meets the car, bicycle and service vehicle parking demands generated by various land uses. O2 To minimise on-street car parking to ensure road safety and visual aesthetics.	Development must use the Off-Street Parking Schedule to calculate the amount of car, bicycle and service vehicle parking spaces that are required on the site.	Complies The extent of parking generation will not be unreasonably alerted by way of the proposal. While it is acknowledged that the internal arrangement at ground level has been modified and will not incorporate additional seating
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		areas, this outcome will not give rise to an unreasonable increase in parking demand and in doing so, it is deemed that the street networks can comfortably cater for any diminutive increase.
Section 3- Design and Layout		
O1 To ensure the location and layout of parking areas function efficiently and safely. O2 To provide efficiency in vehicular circulation and connection with the external traffic network. O3 To achieve a balance between parking requirements, visual aesthetics and pedestrian safety.	<u>Parking location</u> Development must not locate entries to car parking or delivery areas: (a) close to intersections and signalised junctions; (b) on crests or curves; (c) where adequate sight distance is not available; (d) opposite parking entries of other buildings that generate a large amount of traffic (unless separated by a raised median island); (e) where right turning traffic entering may obstruct through traffic; (f) where vehicles entering might interfere with operations of bus stops, taxi ranks, loading zones or pedestrian crossings; or (g) where there are obstructions which may prevent drivers from having a clear view of pedestrians and vehicles.	<u>Complies</u> Not being alerted by way of this proposal.

Chapter 3.3 – WASTE MANAGEMENT

Section 4 – Commercial Development

O1 To maximise resource recovery and encourage source separation of waste, reuse and recycling by ensuring development provides adequate and appropriate bin storage and collection areas.

O2 To ensure development incorporates well-designed and adaptable bin storage areas and collection facilities that are convenient and accessible to occupants.

O3 To maximise residential amenity and minimise adverse environmental and health related impacts associated with waste management such as odour and noise from bin storage and collection areas.

O4 To ensure bin storage and collection areas are designed to integrate with and meet the requirements for Council's domestic waste services.

O5 To ensure development facilitates all waste streams being handled, stored and collected in a manner to reduce risk to health and safety of all users including maintenance (such as caretakers), collection staff and contractors (and required vehicles and equipment).

Development must provide bin storage and separation facilities within each tenancy and within the communal bin room.

Development must provide an appropriate and efficient waste storage system that considers:

- (a) the type of business;
- (b) the volume of waste generated on-site;
- (c) the number of bins required for the development and their size;
- (d) additional recycling needs e.g. cardboard, pallets and milk crates;
- (e) waste and recycling collection frequencies.

Where development involves multiple tenancies, the design of development is to ensure each tenancy will be able to obtain a Trade Waste Licence.

Bin storage areas are to integrate with the overall design and functionality of development and are to locate within the building envelope to enable these areas to be screened from view from the public domain.

The design of the bin storage area must comply with the requirements of the applicable Waste Design for New Developments Guide.

An on-site collection point is to be nominated for development. The location of the collection point must allow collection vehicles to enter and exit the site in a forward direction and allow all vehicle movements to comply with the Australian Standard AS 2890.2. The location of the

Complies

The proposal is accompanied by an operational waste management plan prepared by FLDC.

The extent of waste generation will remain consistent with that already deemed acceptable under **DA-294/2023**.

The required waste storage area remains sited adjacent to the existing garage from where ease of transfer to the street verge can occur pursuant to the established waste pickup arrangement.

O6 To integrate bin storage and collection areas with the building form and landscape to avoid adverse visual impacts on the streetscape and neighbourhood. O7 To assist in achieving Federal and State Government waste minimisation and diversion targets as set by relevant legislation, regulations and strategies.	collection point must ensure waste servicing does not impact on any access points, internal roads and car parking areas. Waste collection frequency is to be a minimum of once per week. Higher collection frequency may be required for development with larger waste generation rates or development that produce food waste. Bin storage areas are to be kept clean, hygienic and free from odours. Higher collection frequencies must not impact on neighbouring residents in relation to noise, odour and traffic. Collection frequency for commercial tenancies producing more than 50 litres of meat, seafood or poultry waste must have daily waste collection or be designed to be provided with a dedicated refrigerated room for waste storage between collections.	
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CHAPTER 3.7 LANDSCAPE

Section 2 – Landscape Design

O1 To integrate the landscape design with the overall design of the development. O2 To promote the retention and planting of large and medium size trees, and the healthy growth of trees in urban areas. O3 To provide deep soil zones to manage urban heat and water, and to allow for and support healthy plant and tree growth.	New landscaping is to complement the existing street landscaping and improve the quality of the streetscape. The landscape design is to contribute to and take advantage of the site characteristics. Development must consider the retention of existing trees in the building design.	Complies No tree removal is sought as part of this application.
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O4 To contribute to the quality and amenity of communal open space, podiums and courtyards.		
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Section 3 – Neighborhood Shops

Building design

A maximum one neighbourhood shop is permitted on the site.

Comment

As approved under DA-294/2023, only one 'Food and drink' premises use remains on site.

The neighbourhood shop must be located on the ground floor.

Comment

The approved use under DA-294/2023 for a 'Food and drink' premises remains sited on the ground floor, albeit, includes storage space within an attic that serves to function in association with the approved use at ground level.

A stand-alone neighbourhood shop must comply with the storey limit and setback controls applicable to attached dwellings in Zone R3 or residential flat buildings in Zone R4.

Applicable Controls as Follows:

Height

Development for the purposes of attached dwellings must not exceed the following numerical requirements:

- Maximum of two storeys and 7m maximum external wall height, where the height of buildings under the LEP is 8.5m.
- Maximum three storeys and 10m maximum external wall height, where the height of buildings under the LEP is 11.5m.

Comment

The proposal comprises of a maximum wall height of 8.5m and will be a maximum of one (1) storey plus attic at any point.

Setbacks in the R3 zone**Multi dwelling housing and attached dwelling development must comply with the minimum setbacks as follows:**

- A minimum setback of 6m from the front boundary.
- A minimum setback of 3m from the rear boundary where the building the subject of the setback, is single storey.
- Minimum 3m or 5m width of deep soil along the front and rear boundaries based on setback requirements.
- On corner lots a minimum of 5.5m from the longer street frontage.

Multi dwelling housing development must comply with the following side setbacks:

- A minimum of setback of 1.5m from the side boundaries for dwellings that would be fronting the street or front setback.
- A minimum setback of 2.5m from the side boundaries for building that does not front the street or front setback.
- A minimum of 1m width of deep soil alongside boundaries.

Comment

Street setbacks generally remain commensurate with that of the existing building across the ground level. In relation to the attic, the retained ground floor wall peripheries have been utilised as the pitching points for the attic and in doing so, maintain the established building setbacks.

Development must achieve a high standard of architectural design and visual quality including:

- facade modulation;
- high quality materials including variation in texture and colour;
- landscaping within the front boundary setback; and
- vehicle access, parking and maneuvering not being visually dominant when viewed from the street.

Comment

The modified development introduces a more refined facade arrangement which includes a greater level of built form articulation. The materiality of the building now contains skin cladding, general cladding, concrete and aluminum framing which will result in a more orderly built form composition and streetscape presentation.

Development must provide an active street frontage and may include large, transparent windows on the street elevation that enable the perception of indoor activity to be obtained from the public domain. Council does not permit solid roller doors and shutters.

Comment

The modified design includes the provision of large windows along Canterbury Road that return along the Stephenson Street frontage and in doing so, will enable a greater degree of visual connection with the public domain network.

Amenity

Council must consider the following matters to ensure development for the purposes of neighbourhood shops has a minimal impact on the amenity of adjoining dwellings and neighbouring sites:

- (a) the likely number of vehicle, delivery and visitor movements;
- (b) the size of delivery vehicles associated with the proposed development;
- (c) whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development;
- (d) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised; and
- (e) whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting, vibration, fumes, gases, smoke, dust or odours, or the like.

Comment

The likely number of visitor and or delivery movements necessitated by the use will not significantly alerted to that already deemed reasonable under DA-294/2023, for the 'Food and drink' premises use on site. The operation of the premises will not give rise to any exacerbated increase to fumes, gases, odours and the like nor will the modification warrant any variation to the required size of delivery vehicles servicing the use.

All loading and unloading is to be undertaken on-site. The loading and unloading areas should locate behind the front building line.

Comment

Loading and unloading operations will be carried out as per the current approved site arrangements.

Council may limit the hours of operation of neighbourhood shops from 7.00am to 7.00pm Monday to Saturday and 9.00am to 6.00pm on a Sunday and not at any time on a public holiday.

Comment

The proposal does not alter the approved operating hours which will remain as per the original approval in DA-294/2023.

7. THE LIKELY IMPACTS OF THE DEVELOPMENT

7.1 BUILT ENVIRONMENT

7.1.1 Height, Bulk and Scale

The modifications do not unreasonably nor adversely alter the visual siting, scale and or built form relationship the building will present as observed from key areas along the public domain and neighbouring properties. While a storage level at upper level is proposed, this is contained within an attic form that will not present as a disproportionate contribution to the setting.

7.1.2 Setbacks

The modifications do not result in any change to approved building setbacks which will remain consistent with that of the current approval noting that the attic addition maintains the established setbacks at ground level.

7.1.3 Design and Aesthetics

The outward appearance of the development as it presents to the public domain and neighbouring properties is positively refined by way of the proposed modifications in terms of built form articulation and dispersal of newly introduced more sympathetic materiality.

7.2 PUBLIC AMENITY

7.2.1 Views and Visual Impact

The modifications have no effect on perceptible built form volume or the attainment of views from both neighbouring properties and or key areas along the public domain.

7.2.3 Overshadowing, Acoustic and Visual Privacy

The modifications are not likely to result in any tangible variance to the extent of visual and or acoustic benefit afforded to neighboring properties and future residents alike. Any perceptible increase in shadowing will fall over the rear of site and or across Stephenson Street and or Dunlop Lane.

7.3 NATURAL ENVIRONMENT

7.3.1 Tree Removal and Landscaping

The modifications do not seek to alter the approved outcomes concerning landscaping.

7.3.2 Water Management

The drainage outcomes/solutions for the development (as modified) remains not inconsistent with that of the original approval.

7.3.3 Air and Microclimate

The modifications are not expected to give rise to any long term or adverse impacts on local or regional air quality.

7.4 MOVEMENT AND ACCESS

7.4.1 Parking/Access

No alterations to the site access arrangements and or parking provision is proposed.

7.4.2 Accessibility

The proposal reconfigures the premises entry point by way of the removal of unnecessary ramping and height reduction of the primary building floor plate so as to better align with the public domain network.

7.5 SUITABILITY OF THE SITE

The suitability of the site for the development has been established through the approval of **DA-294/2023**. The proposed modifications do not alter the nature of the development such that it would become unsuitable for the site as:

- There is no change to the approved land use;
- The development as modified will achieve a high degree of compliance with the LEP and DCP; and
- The likely impacts of the modified development are appropriate and consistent with the original development approval and the proposed modifications will have negligible environmental impacts.

7.6 NOTIFICATION AND SUBMISSIONS

The applicant will consider any submissions made concerning the proposed modifications within the period prescribed by the Regulations.

7.7 THE PUBLIC INTEREST

The proposal is considered in the public interest for the following reasons:

- The proposed modifications will maintain the amenity of surrounding development and the public domain; and
- The proposed modifications will have no adverse impact on the public interest as careful consideration has been given to public access, public safety and site interface.

8. CONCLUSION

This modification application is lodged on behalf of project under Section 4.55 (2) of the EP&A Act 1979. It seeks to modify the approval DA-294/2023 located at 1108-1110 Canterbury Road, Roselands.

The proposed modification has been assessed against the relevant heads of consideration and is considered to be substantially the same development as that originally approved. The proposed modifications are considered satisfactory and acceptable for the following reasons:

- The proposed modifications result in a development which has an external appearance and architectural quality, not inconsistent with the current approved scheme;
- The proposed modifications do not adversely alter the proposals ability to remain consistent with the key considerations detailed within the within the prescribed standards and development controls.
- The proposed modified and resultant built form does not generate any unreasonable additional level of impact for neighbouring properties and/or the streetscape; and
- The development as modified will remain substantially the same as the development to which consent was originally granted.

As demonstrated throughout this document, the modification is considered to be acceptable and worthy of Council support and approval.

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All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to BMA Urban at the date of this report, and upon which BMA Urban relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which BMA Urban has no control.

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This report has been prepared with due care and diligence by BMA Urban and the statements and opinions given by BMA Urban in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.