

PLANNING STATEMENT

47-49 PERCY STREET, BANKSTOWN

S4.55(2) MODIFICATION APPLICATION



PREPARED FOR TQM Design & Construct

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1. EXECUTIVE SUMMARY

This statement has been prepared by Principle Planning and Urban Design (PPUD) to accompany an application under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (the Act) to Canterbury-Bankstown Council. The proponent of the application is TQM Design and Construct.

The modification relates to 47-49 Percy Street, Bankstown (the site) and seeks to amend development DA74/2017. This approval was granted by Joint Regional Planning Panel (JRPP) on 19 June 2017 for *demolition of existing site structures and construction of a six (6) storey residential flat building comprising of sixty (60) residential units and basement car parking Under State Environmental Planning Policy (Affordable Rental Housing) 2009*. The above-mentioned Development Consent has been physically commenced; therefore, the consent remains valid.

There have been considerable changes to numerous elements since the consent was issued. The town planning statutory environment has changed. For example, the affordable housing provisions under which the original consent was issued required 50% of the floor space to be used for affordable housing purposes, whilst this has now been changed to 15% of the total floor space according to the Infill Housing provisions in Chapter 2 of State Environmental Planning Policy (Housing) 2021 ('Housing SEPP'). Construction material and labor costs are significantly more expensive now compared to when the consent was originally issued. Housing feasibility conditions, and the housing market in general, is significantly constrained now compared to 2017, safety as well as building standards within the National Construction Code (NCC) have risen significantly since 2017, as have environmentally sustainable development (ESD) standards.

The approved proposal does not reflect the changed environment in terms of feasibility, building standards, access standards, ESD as well as contemporary town planning benchmarks for affordable housing floor space.

Therefore, the primary purpose of this modification is to enable a development which reflects the current environment in terms of feasibility, as well as standards for safety accessibility as well as ESD. This modification also provides an opportunity to improve the general layout of the approved dwellings, such as reconfiguring layouts and the like. Although, these changes are minor.

The purpose of this report is to describe the proposed modifications, address relevant statutory considerations, and assess the environmental impact of the development against the requirements of the Act.

The modification has been prepared pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 (the EPA Act). The modification seeks the following changes:

- Minor adjustments to storage size at basement levels
- Minor amendments to the basement layout and car parking numbers
- Internal and external layout changes to residential levels to improve amenity and accommodate additional required building services.

- Modifications to the roof level to provide improved amenities and additional facilities
- Height increases to meet current design and building standards.

The report is accompanied by the following documents

Appendix	Document	Prepared by	Date
A	Architectural Plans	DWA	9 April 2026
B	Landscape Plans	Site Image	20 April 2026
C	Accessibility Assessment Report	Allcert Group	1 May 2026
D	Traffic Management Plan	Genesis Traffic	5 May 2026
E	Concept Stormwater Design	Apex Civil Engineers	23 April 2026
F	BCA	Allcert Group	21 April 2026
G	BASIX Certificate and Assessment Report	ESD Synergy	01 June 2026
H	Acoustical Assessment	Harwood Acoustics	24 April 2026
I	Waste Management Plan	Dickens Waste Solutions	22 May 2026
J	EDC Report	Property & Building Assessments Pty Ltd	12 May 2026
K	NatHERS Certificate	ESD Synergy	13 May 2026

The modified development is effectively identical to the approved development in terms of building footprint. The modified development retains the same number of approved dwellings (i.e. 60) in almost the same dwelling mix as originally approved. The modified development relies on only 7 less parking spaces compared to the original approval (as excess parking was provided as part of the original approval). The modified proposal includes additional deep soil landscaping, albeit marginally. The overall building height increases due to current building and safety standards, albeit by only 2.21m. The modified development's gross floor area (GFA) increases marginally by 187.69m² due to internal reconfigurations. The quantity of affordable housing dwellings decreases from 19 dwellings to 9 dwellings, in line with the '15% GFA' requirement outlined in the Infill Housing Provisions of the Housing SEPP.

On this basis, the proposed modifications are minor. Subsequently, the modified development's impacts are effectively the same as the approved development's impacts. Therefore, the modified development is substantially the same as that which has been approved. In this regard, modification of the consent as proposed is warranted.

2. THE SITE AND SURROUNDS

The subject site is located on the western side of Percy Street and is known as 47-49 Percy Street, Bankstown. It contains two allotments that are legally described as Lots 30 and 31 in DP6649. A site locality plan is provided at **Figure 3**, and the site is highlighted blue.

The site is located near the intersection of Percy Street and Macauley Avenue. It is approximately 310 m southwest of Stevens Reserve, approximately 400 m southeast of Bankstown City Gardens, 550 m southeast of the Bankstown Local Centre, and 400 m east of Bankstown Oval and Grahame Thomas Oval.

The site is located approximately 1km from Bankstown railway station which provides access to Sydney City and surrounding suburbs. The site is located in close proximity to bus stops with services operating along Stacy Street, Restwell Street and Chapel Road South.

The subject site is in a regular shape with a frontage to Percy Street of 40.23m, side boundary lengths of 50.29m and a rear boundary length of 40m. The site has a total area of 2023m².

The subject site is zoned R4 High Density Residential and does not contain any heritage item, not located in a heritage conservation area and is not in the vicinity of any heritage items. No. 47 Percy Street is currently occupied by a detached residential dwelling with associated outbuilding structures. No. 49 Percy Street contains a single-storey building used as a childcare centre. Two lots both have direct access to Percy Street.

The site is located in a low-density residential area characterised by one and two dwelling houses with older style villas and townhouses located further north along Percy Street. No. 27-37 Percy Street contains two residential flat buildings (**Figure 10**).

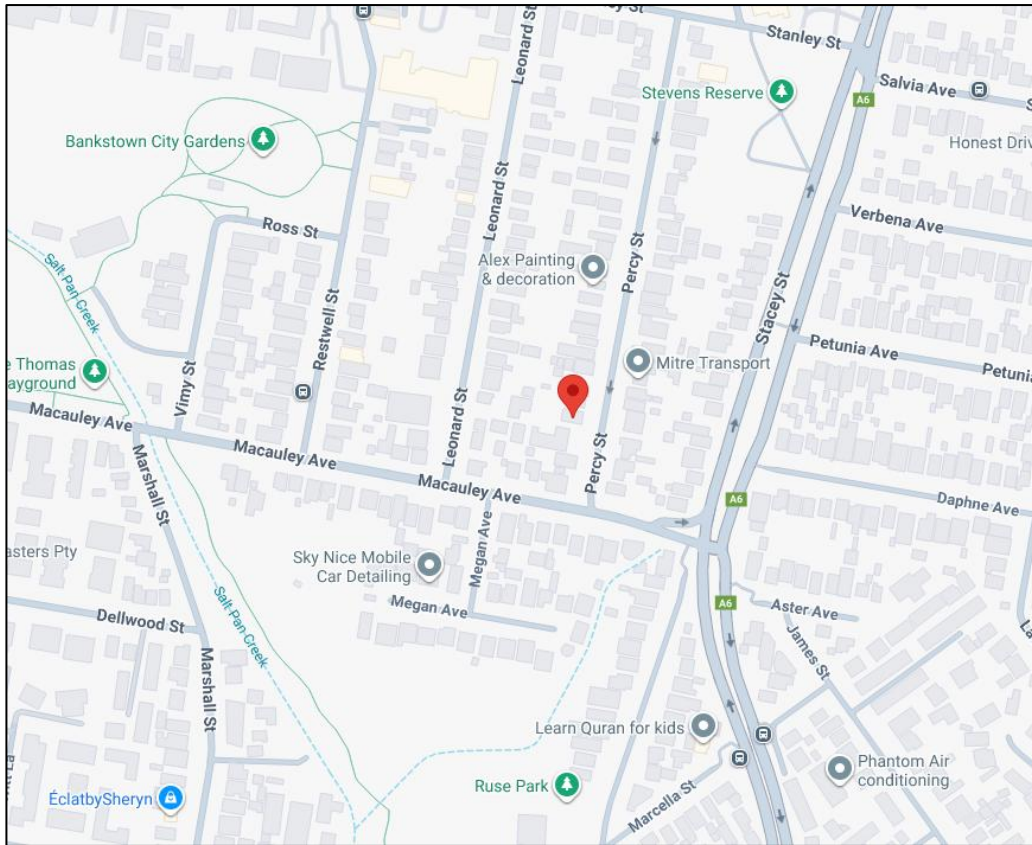


Figure 1. Locality Map (Source: Google Maps 2026)



Figure 2. Aerial view of the site and locality (Source: Six Maps 2026)



Figure 3. Site and immediate surrounds (Source: Six Maps 2026)

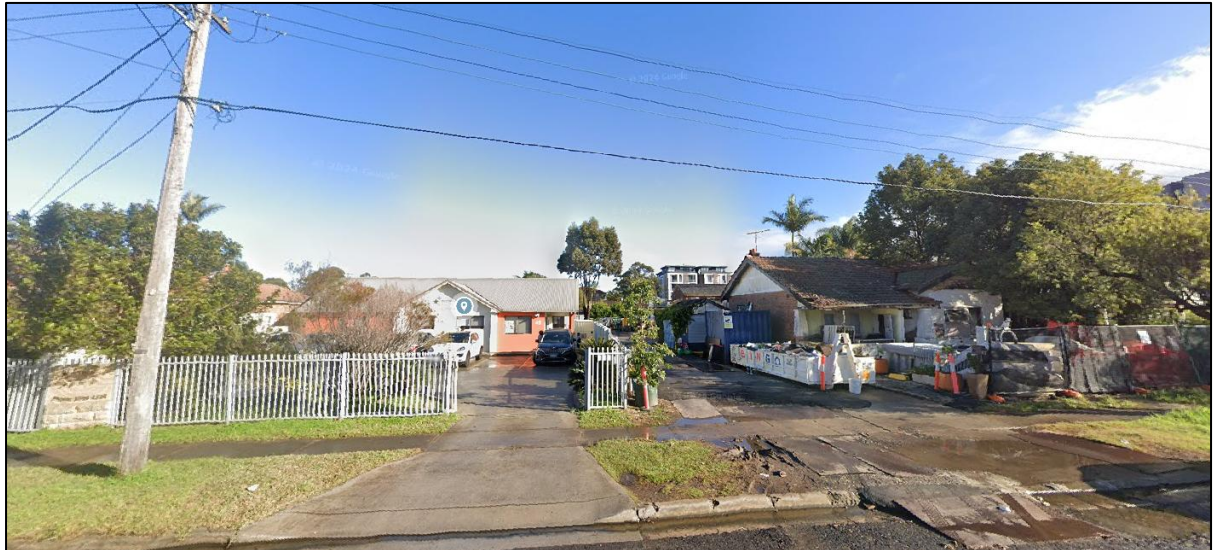


Figure 4. Subject site: No. 47 Percy Street on the right and No. 49 Percy Street on the left (Source: Google Maps, 2026)



Figure 5. Dwellings to the north of the subject site (Source: Google Maps 2026)



Figure 6. Dwellings to the south of the subject site (Source: Google Maps, 2026)

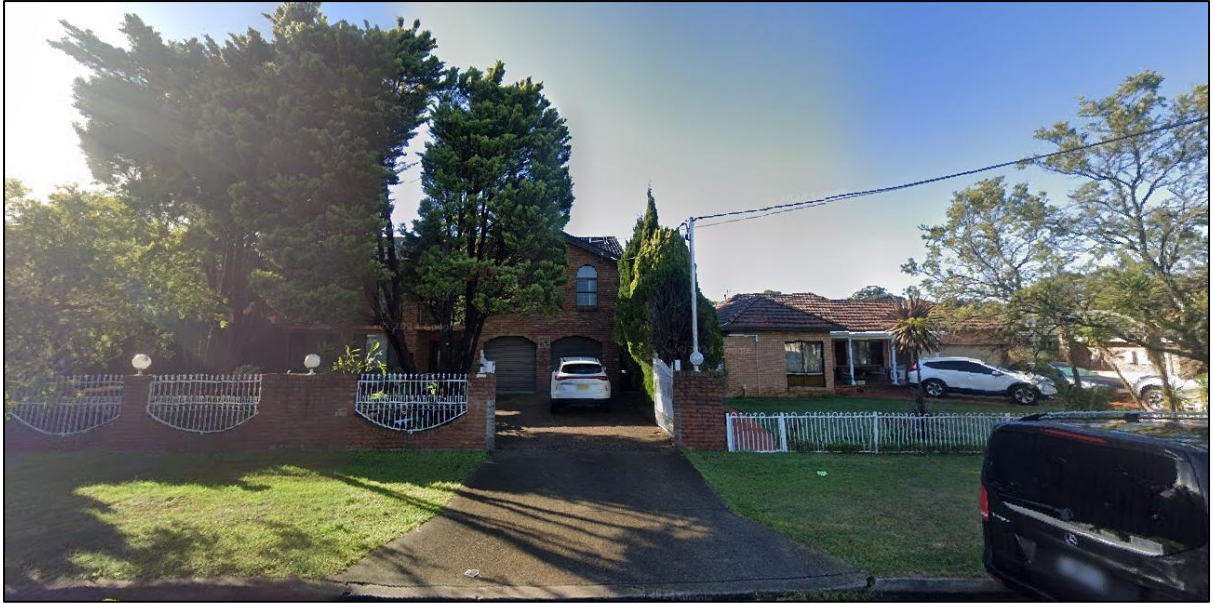


Figure 7. Existing development opposite the site at 50 Percy Street (Source: Google Maps, 2026)

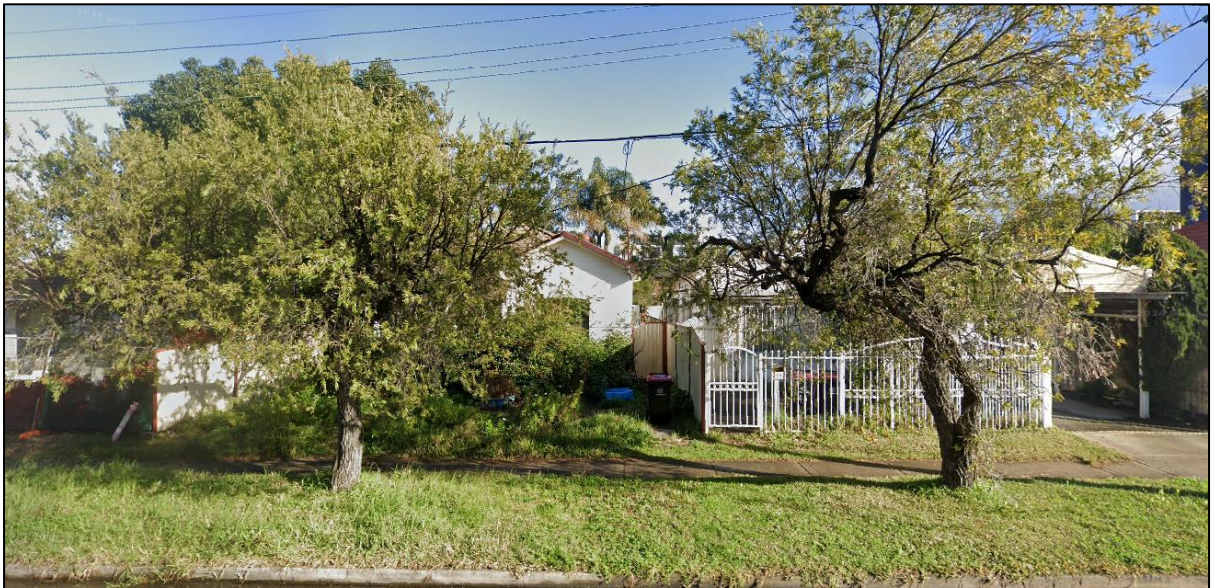


Figure 8. Adjoining development to the north at 45 Percy Street (Source: Google Maps, 2026)



Figure 9. Adjoining development to the south at 51 Percy Street (Source: Google Maps, 2026)



Figure 10. Residential flat buildings at No. 27-37 Percy Street (Source: PPUD, 2026)

3. APPROVED DEVELOPMENT

The relevant development history relates to the subject site:

47 Percy Street, Bankstown

DA No.	Description	Determination
1839/2003	Erection of a Temporary Demountable Building for Use as a Child Care Facility for 10 Children, in conjunction with the existing childcare centre at 49 Percy Street	Approved 24/11/2003

49 Percy Street, Bankstown

DA No.	Description	Determination
103/1994	New building and increase in children (to 39) for existing long day care centre	Approved 27/06/1994
1840/2003	Demolition of Building to Front of Premises	Approved 08/12/2003
1019/2004	Alterations and Additions to Existing Childcare Centre	Approved 08/03/2005

47-49 Percy Street, Bankstown

DA No.	Description	Determination
596/2016	Demolition of Existing Structures and Construction of a Six (6) Storey Residential Flat Building Comprising of Forty-Nine (49) Apartments and Basement Car-Parking	Approved 05/10/2016
74/2017	Demolition of existing site structures and construction of a six (6) storey residential flat building comprising of sixty (60) residential units and basement car parking under State Environmental Planning Policy (Affordable Rental Housing) 2009	Approved by Joint Regional Planning Panel in 19/06/2017.

4. PROPOSED MODIFICATION

4.1 OVERVIEW OF MODIFICATION

This Section 4.55(2) application seeks to modify DA-74/2017 to allow minor changes to the internal and external layout of the approved development. The overall purpose is to modify the development to reflect contemporary standards in terms of building construction, safety, accessibility, ESD, and affordable housing floor space such that the development remains feasible. The proposed amendments include various adjustments across all levels, including changes to storage and apartment sizes, modifications to parking provisions and layout, updated garbage room and pump room layouts, added service risers and lobby cupboards, removal of certain communal facilities, alterations to affordable housing floor space, and the addition of a rooftop COS area with a BBQ area.

This requires modification to *Condition 1 - Approved plans* for proposed changes to the floor plans, elevations and sections. Refer to Section 4.3 of this report for specific changes to this condition.

In detail, this Section 4.55(2) application seeks:

Basement level 2

- Changes to storage sizes
- Reconfiguration of Parking Spaces and Ramp

- Addition of service risers and cupboards to lobbies
- Removal of BBQ and Clothes drying area to rear of COS
- Addition of Fire Egress path for Rear Stairs

Basement level 1

- Changes to storage sizes
- Changes to bulky waste room
- Removal of one adaptable parking space
- Increase of Pump Room Size (32m²)
- Reconfiguration of Parking Spaces and Ramp

Leve 1-3

- Changes to apartment sizes (including POS)
- Addition of service risers and cupboards to lobbies

Level 4-5

- Changes to apartment sizes (including POS)
- Addition of service risers and cupboards to lobbies

Ground level

- Changes to apartment sizes (including POS)
- Changes to the garbage room size to comply with conditions in original approval

Roof

- Addition of COS 293.1sqm and BBQ area

As a result of the above proposed modification, an increase in GFA and FSR is also proposed. The latest affordable housing requirement under Chapter 2 of State Environmental Planning Policy (Housing) 2021 set out revised standards for bonus FSR where a minimum portion of GFA is allocated to affordable housing.

A comparison of the approved and proposed development statistics is provided in Table 1 below.

Statistic	Approved Development	Proposed Modification
GFA	4248.3sqm	4435.99sqm
FSR	2.1:1	2.19:1
Building Height	20.5m	22.71m
Landscaped area	457.2m ² (23%)	588.4m ² (29.1%)
Deep soil area	325m ² (16%)	539.1 m ² (26.6%)
Apartments and Mix	60 residential apartments with a dwelling mix of: - 17 x 1 Bedroom units - 37 x 2 Bedroom units - 5 x 3 Bedroom units - 1 x Studio unit 6 Adaptable units 12 visitor car parking spaces 19 Affordable housing units (35% of the total GFA)	60 residential apartments with a dwelling mix of: - 16 x 1 Bedroom units - 35 x 2 Bedroom units - 4 x 3 Bedroom units - 5 x Studio units 6 Adaptable units 12 visitor car parking spaces 9 Affordable housing units (15% of the total GFA)
Car parking	69 spaces	62 spaces (including 5 accessible parking spaces)

Table 1 Development Statistics

The below figures highlight the key proposed modifications. Refer to the architectural plans found in **Appendix A** for further details.



Figure 11 East Elevation (Source: DWA)

4.1.1 ACCESSIBILITY AND BCA COMPLIANCE

An Access Report prepared by Accessible Building Solutions accompanies this application (refer to **Appendix C** and **F**). This Assessment was undertaken to ensure the development meets standard under the Building Code of Australia (BCA), in accordance with Section 19 of the Environmental Planning and Assessment (Development Certification & Fire Safety) Regulation 2021, and the Access Code relevant to the Disability (Access to Premises-Buildings) Standards 2010 (the Access to Premises Standards). The report concludes that the development has achieved compliance with the BCA provisions, provided that the project design team appropriately addresses the identified recommendations. Additionally, these matters can be resolved in the Construction Certificate documentation without conflicting with the Development Approval.

4.1.2 ACOUSTICS

An updated Acoustic Assessment prepared by Harwood Acoustics accompanies this application (refer to **Appendix H**). The report addresses the potential for noise impact on existing residential receptors from the operation of the mechanical plant servicing the building and advice relating to compliance with the acoustical provisions of Part F7 of the Building Code of Australia 2022. The report provides recommendations for consideration by the architect and a final design review that will be undertaken prior to the issue of a Construction Certificate.

4.1.3 COST OF WORKS

An Estimated Development Cost (EDC) prepared by Property & Building Assessments Pty Ltd accompanies this application (refer to **Appendix J**). The estimated total development cost is \$22,721,622.86 (including GST).

4.1.4 LANDSCAPING AND COMMUNAL OPEN SPACE

Landscaping plans prepared by Site Image accompany this application (refer to **Appendix B**). The communal open space (COS) is appropriately located to benefit all residents being located at ground and roof levels. Mass planting and landscaping in all COS improves privacy and shading whilst contributing to amenity. **Figures 12** and **13** below outline the landscape details of the development.

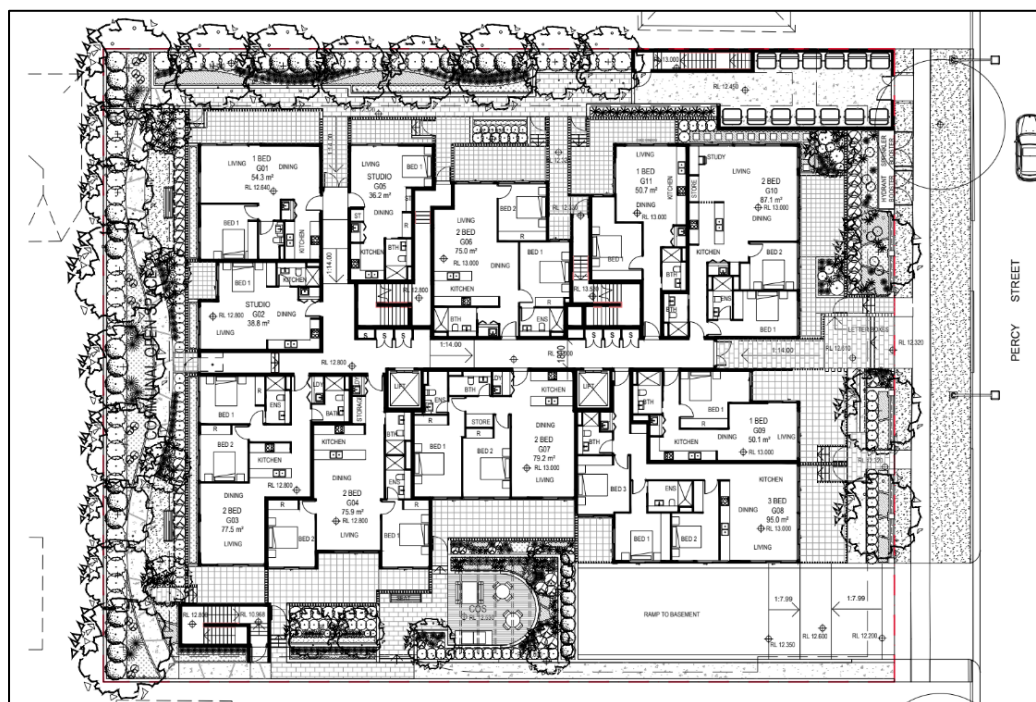


Figure 12 Ground floor landscape details (Source: Site Image)

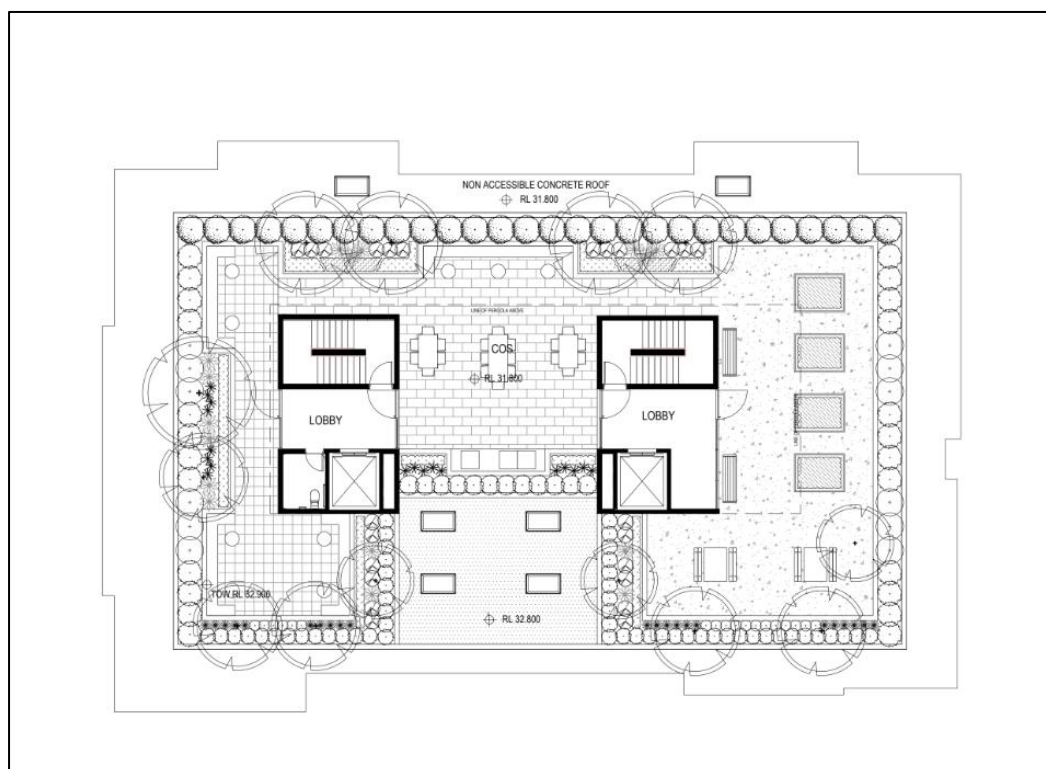


Figure 13 Roof terrace landscape details (Source: Site Image)

4.1.5 TRAFFIC

An updated Traffic Impact Assessment prepared by Genesis Traffic accompanies this application (refer to **Appendix D**). The report summarises that the proposed scheme will not generate additional traffic or cause any adverse traffic implications, the proposed parking provision will comply with the previously approved arrangement pursuant to the ADG and adequately satisfies the development. It is confirmed that the proposed access, internal circulation and parking arrangements will meet AS design criteria.

4.1.6 WASTE MANAGEMENT

An updated Waste Management Plan prepared by Dickens Waste Solutions accompanies this application (refer to **Appendix I**). The plan details the waste management for the development in accordance with Council's applicable policies.

4.2 DETAILS AND JUSTIFICATION OF MODIFICATION

The details of the proposed modification are provided in the amended architectural plans (refer to **Appendix A**). Detailed specifications for modifications to specific conditions are outlined in Sections 4.3 below.

Modification	Justification
Basement level 2 - Changes to storage size - Reconfiguration of Parking Spaces and Ramp	• To comply with Apartment Design Guide • To comply with State Environmental Planning Policy (Housing) 2021 and Canterbury-Bankstown DCP 2023 • Improve visibility and safety of drivers entering/exiting the carpark
Basement level 1 - Changes to storage size - Changes to bulky waste room - Removal of one adaptable parking space - Increase of pump room size (32m²) - Reconfiguration of Parking Spaces and Ramp	• To comply with Apartment Design Guide • To comply with relevant standards • Improve visibility and safety of drivers entering/exiting the carpark
Ground level - Changes to apartment sizes (including POS) - Changes to the garbage room size to comply with conditions in original approval	• To comply with Apartment Design Guide • To comply with conditions in original approval • To comply with relevant standards

- Addition of Service risers and cupboards to lobbies - Removal of BBQ and Clothes drying area to rear of COS - Addition of Fire Egress path for Rear Stairs	• To improve access, function and useability of apartments inline with current market expectations.
Level 1-3 - Changes to apartments sizes (including POS) - Addition of Service risers and cupboards to lobbies	• To comply with Apartment Design Guide • To comply with relevant standards • To improve access, function and useability of apartments in line with current market expectations.
Level 4-5 - Changes to apartment sizes (including POS) - Addition of Service risers and cupboards to lobbies	• To comply with Apartment Design Guide • To comply with relevant standards • To improve access, function and useability of apartments in line with current market expectations.
Roof - Addition of COS 268.7 sqm and BBQ area	• To improve amenity and function of apartments • To comply with Apartment Design Guide

4.3 CONDITIONS TO BE MODIFIED

This modification application seeks to amend the following conditions of the original consent, noting all the proposed deletions have a ~~strike through~~ and changes are in **red** text:

Condition 2 – Approved Plans – The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Drawing Number	Drawing Title	Revision	Prepared by	Dated
000	Coversheet	P	DWA	09.04.2026
001	DCP + LEP Analysis	P	DWA	09.04.2026
002	Regional Context Analysis	P	DWA	09.04.2026

003	Local Context Analysis	P	DWA	09.04.2026
004	Detailed Context Analysis	P	DWA	09.04.2026
A004 005	Site Plan	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A006 006	Setback Plan Site Survey	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A090 010	Basement Level 2 Approved + Proposed Floor Plan – Basement Level 2	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A10 011	Basement Level 1 Approved + Proposed Floor Plan – Basement Level 1	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A101 012	Ground Floor Plan Approved + Proposed Floor Plan – Ground Level	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A102 013	Typical Plan – Level 1, 2, 3 Approved + Proposed Floor Plan – Level 1 - 3	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A103 014	Typical Plan – Level 4, 5 Approved + Proposed Floor Plan – Level 4 - 5	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A104 015	Roof Plan Approved + Proposed Floor Plan – Roof Level	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A150 016	Adaptable Units Proposed - GFA Plans	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A200 017	East Elevation Proposed - Key Plans	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026

A201 018	North Elevation Proposed - Cross Ventilation Analysis	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A202 019	South Elevation Proposed - Affordable Housing Key Plans	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A203 020	West Elevation Approved + Proposed Elevation - North	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A300 021	Section A Approved + Proposed Elevation - South	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A301 022	Section B Approved + Proposed Elevation - East	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
A310 023	Fire Hydrant and Sprinkler Booster Detail Approved + Proposed Elevation - West	B P	Towy Owen Partners DWA	31.03.2017 09.04.2026
030	Approved + Proposed – Section A-A	P	DWA	09.04.2026
031	Approved + Proposed – Section B-B	P	DWA	09.04.2026
040	Proposed – 3D Views	P	DWA	09.04.2026
050	Approved + Proposed - Shadows	P	DWA	09.04.2026
051	Approved + Proposed - Shadows	P	DWA	09.04.2026
052	Approved + Proposed - Shadows	P	DWA	09.04.2026
053	Approved + Proposed - Shadows	P	DWA	09.04.2026

060	Proposed – View from the Sun	P	DWA	09.04.2026
061	Proposed – View from the Sun	P	DWA	09.04.2026
062	Proposed – Solar Compliance Analysis	P	DWA	09.04.2026
063	Proposed – Solar Analysis	P	DWA	09.04.2026
080	Proposed – Landscape Calculations	P	DWA	09.04.2026

c) The following amendments are to be made to the car parking layout within the basement:

~~b. Spaces 04 and 05 on Basement Level 1 shall be marked as Visitor parking instead of Spaces 07 and 08~~

Condition 4 – Landscape Plan – A Landscape Plan prepared by Site Image will accompany this application.

Condition 15 – Stormwater Drainage Plan – Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan project No. CSW2025.105, drawing no.SW100, revision 02, dated 23 April 2026, prepared by Apex Civil Engineers. The final plan shall be certified by the design engineer that it complies with Council's be certified by the design engineer that it complies with Council's Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

5. Statutory Considerations

5.1 OVERVIEW

Section 4.55(2) of the EP&A Act enables a consent authority to modify a development consent upon application being sought by the applicant or any other person entitled to the act on the consent, provided that the consent authority as part of the assessment process take into consideration the following matters:

Modification of Consents

*(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 development to which the consent as modified relates is the same or substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

(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.

5.2 SUBSTANTIALLY THE SAME DEVELOPMENT (S.4.55(2))

“Substantially the same development” means “essentially or materially or having the same essence” as defined by Pearlman C.J in Schrodgers Australian Property Management Ltd v Shoalhaven City Council and Anor (1999) NSWLEC 251. Accordingly, it is the substance of the proposal relative to the substance of the development as originally approved.

The original approved development was for “demolition of existing site structures and construction of a six (6) storey residential flat building comprising of sixty residential units and basement car parking under State Environmental Planning Policy (Affordable Rental Housing)

2009". The proposed modifications are not considered to change the essential features of the approved development for the following reasons:

- The internal changes are minor in nature and will not have an impact on the bulk and scale of the approved development.
- The external changes of the building façade and height do not have significant visual impacts on the surrounding properties. They do not change the character or nature of the approved development.
- The inclusion of landscape plans is in line with the approved development.
- The resulting height increase is minor and will not have any significant visual impacts on surrounding properties.
- The proposed development does not seek to change the nature and substance of the approved development.

The increase in height of building in this modification is a result of compliance with the relevant NCC/BCA and Australian Standards and does not change the character and nature of the approved development. An increase of 2.21m is required to meet the Apartment Design Guide and accommodate additional amenities on the rooftop for providing communal open space and BBQ area.

In the case of *Realize Architecture Pty Ltd v Canterbury-Bankstown Council* [2023] NSWLEC 1437 (*Realize Architecture* (1)) 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 developments. In this instance, the qualitative similarities between the two schemes were enough to override the large numerical differences described.

As such, it can be concluded that the proposed modification is for the purposes of updating the approved development to reflect current design and building standards. We therefore consider that the development (as modified) will remain substantially the same as the development that was originally approved.

6. Section 4.15(1) Assessment – (Section 4.55(3))

The environmental assessment matters relevant to the proposed modified development under Section 4.15(1) (a), (b), (c), (d) and (e) of the Act are addressed below:

6.1 SECTION 4.15(1) CONSIDERATION (SECTION 4.55(3))

Section 4.55(3) of the EP&A Act requires that in determining an application for the modification of a development consent, Council as the consent authority must take into consideration such for the matters referred to in Section 4.15(1) of the EP&A Act as are of relevance to the development the subject of the modification application.

The matters for consideration under Section 4.15(1) of the EP&A Act are considered in Section 5 of this Statement.

6.2 SECTION 4.15(1)(A)(I) ANY ENVIRONMENTAL PLANNING INSTRUMENT

The principal planning instruments applying to the site are addressed in the following sections as relevant to the proposed modifications. The principal planning controls applying to the development are contained in:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Canterbury-Bankstown Local Environmental Plan 2023 (LEP); and*
- *Canterbury-Bankstown Development Control Plan 2023 (DCP).*

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

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

The site is not mapped as having Biodiversity Values on the Biodiversity Values Map or in close proximity to any lot mapped as having biodiversity values. No clearing of trees or native vegetation is proposed as part of this modification. The additional landscape plans provided as part of this modification will enhance the development by improving design and facilities for residents in communal open spaces.

Chapter 6 Water catchments

The site is located in the Georges River Catchment and was previously assessed by Council having no adverse impacts on the natural environment. The proposed modifications only include changes to internal layout and additional facilities which will have no impact on the existing approved development.

State Environmental Planning Policy (Housing) 2021

Chapter 2 Affordable Housing

In accordance with Clause 15C, development may be carried out with consent if the following criteria are satisfied:

- (a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5, Chapter 6 or another environmental planning instrument, and*
- (b) the affordable housing component is at least 10%, and*
- (c) all or part of the development is carried out—*
 - (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or*
 - (ii) or development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.*

Referring to the above, the proposed development satisfies 15C(c)(i) of Chapter 2 – Affordable housing as follows:

The site is located within 400m walking distance of the bus stop on Restwell Street at regular intervals, which is classified as an accessible area. Therefore, the site meets the criteria for the provision of affordable housing.

Clause 16 provides an additional FSR and height up to 30% in addition to any maximum FSR or height prescribed by applicable environmental planning instrument (EPI). The Canterbury-Bankstown Local Environmental Plan 2023 prescribes a maximum height of 23m and FSR of 2:1 for the subject site.

The proposal includes an FSR of 2.19:1 and a height of 22.71m, which complies with the 'bonus' provision of the Housing SEPP. The proposal will allocate 15% of the entire gross floor area for affordable housing purposes as part of the planning modification.

**Previous Development (DA 74/2017) is proposed under the Provision
State Environmental Planning Policy (Affordable Rental Housing) 2009**

State Environmental Planning Policy (Affordable Rental Housing) 2009 (the ARH SEPP) applies to the assessment of the proposal. The ARH SEPP prevails over SEPP 65 in the assessment process where there is an inconsistency between the two Environmental Planning Instruments (EPIs).

Part 2 Division 1 of the ARH SEPP relates to 'infill affordable housing' and states as follows:

- (1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if—
 - (a) the development concerned is permitted with consent under another environmental planning instrument, and
 - (b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.
- (2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.

Clause 13 – Floor Space Ratios

Clause 13 permits a bonus floor space in addition to the floor space ratio (FSR) controls in a Local Environment Plan (LEP). The amount of the bonus varies based on the percentage of gross floor area (GFA) to be used for the purposes of affordable rental housing.

The SEPP states:

- (2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus—
 - (a) If the existing maximum floor space ratio is 2.5:1 or less:
 - (i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or
 - (ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 percent, where—
AH is the percentage of the gross floor area of the development that is used for affordable housing.
$$Y = AH \div 100$$

The maximum FSR under the BLEP 2015 is 1.75:1. The proposal will include 662.2m² of the total GFA as affordable rental apartments and will include a mix of one, two and three bedroom apartments. The proposal therefore is permitted to have a maximum FSR of 2.19:1

Chapter 4- Design of Residential Apartment Development

In accordance with Clause 144(3), development may be carried out with consent if the following criteria are satisfied:

- (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*
 - (iii) the conversion of an existing building, and*
- (b) the building is at least 5 storeys, not including underground car parking storeys, and*
- (c) the building contains at least 4 dwellings.*

The proposal includes demolition and construction of a six storey building with 60 dwellings. Therefore, the proposal is subject to this Clause.

In accordance with Clause 147, an assessment against the design principles and apartment design guide is provided below:

Requirement	Comment
Principle 1: Context and Neighbourhood Character	The proposed development is designed in compliance with the planning objectives and building envelope controls under the Canterbury-Bankstown LEP and DCP as well as any Infill Housing provisions within the Housing SEPP.
Principle 2: Built Form and Scale	The building's scale is consistent with existing development within the Bankstown locality and aligns with the desired future character of the R4 High Density Residential zone as envisioned by the planning controls. It observes the required setbacks and presents a well-designed, contemporary appearance that integrates harmoniously with its surroundings.
Principle 3: Density	The density is compliant with the Canterbury-Bankstown LEP and includes affordable housing bonus provided by the affordable housing provisions. The proposal is situated in close proximity to the bus stop with regular intervals, which is ideally suited to a high-quality apartment development featuring ample communal open space and medium density housing.

Principle 4: Sustainability	The proposal provides good sustainable design through natural ventilation and solar access for the amenity and liveability of residents. The proposal is accompanied by a BASIX certificate.
Principle 5: Landscape	The proposal is supported by a detailed landscape plan. Plantings have been selected based on local landscape character and with consideration of the climate, topography, and natural features, in accordance with Canterbury-Bankstown DCP.
Principle 6: Amenity	A high standard of amenity is achieved with regard to the appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook and efficient layouts.
Principle 7: Safety	The design provides a high level of safety and security with clearly defined entries and exits, high levels of surveillance of public areas, and limited opportunities for concealment and blind spots.
Principle 8: Housing Diversity and Social Interaction	The development provides a mix of one, two and three bedroom apartments of varying sizes and layouts to accommodate diverse households and provide different amenities and values. Communal outdoor spaces are configured to support active social interaction and engagement among residents.
Principle 9: Aesthetics	The proposal contributes to the desired future character of the R4 High Density Residential zone. The building is well articulated and includes a high-quality selection of materials and finishes. The design has been supported by a design verification statement prepared by the architect, ensuring that the buildings have been designed with consideration to the design quality principles and the ADG.

APARTMENT DESIGN GUIDE

No.	SEPP 65 Apartment Design Guide		Compliance												
Part 3 – SITING THE DEVELOPMENT															
3A	Site Analysis														
3A-1	Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.		Yes												
3B	Orientation														
3B-1	Building types and layouts respond to the streetscape and site while optimising solar access within the development.		Yes												
3B-2	Overshadowing of neighbouring properties is minimised during mid-winter.		Yes												
3C	Public Domain Interface														
3C-1	Transition between private and public domain is achieved without compromising safety and security.		Yes												
3C-2	Amenity of the public domain is retained and enhanced.		Yes												
3D	Communal and Public Open Space														
3D-1	An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.														
	Design Criteria	Communal open space has a minimum area equal to 25% of the site.	Yes 654.6m ² (32.4%)												
		Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Yes												
3D-2	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.		Yes												
3D-3	Communal open space is designed to maximise safety.		Yes												
3D-4	Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.		Yes												
3E	Deep Soil Zones														
3E-1	Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.		Yes												
	Design Criteria	Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² - 1,500m²</td><td>3m</td></tr><tr><td>greater than 1,500m²</td><td>6m</td></tr><tr><td>greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr></table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m ²	-	7%	650m ² - 1,500m ²	3m	greater than 1,500m ²	6m	greater than 1,500m ² with significant existing tree cover	6m	Yes – Deep soil zones provided are in accordance with the requirements. Approved deep soil area: 331m ² (16.4%) Proposed deep soil area: 539.1m ² (26.6%)
Site area	Minimum dimensions	Deep soil zone (% of site area)													
less than 650m ²	-	7%													
650m ² - 1,500m ²	3m														
greater than 1,500m ²	6m														
greater than 1,500m ² with significant existing tree cover	6m														
3F	Visual Privacy														
3F-1	Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.														
	Design Criteria	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required	Complies												

No.	SEPP 65 Apartment Design Guide			Compliance											
		separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	
Building height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													
		Separation distances between buildings on the same site must be as follows: Up to 4 storeys/12 metres Habitable Rooms/Balconies to Habitable Rooms/Balconies 12 Habitable Rooms to Non-Habitable Rooms metres 9 Non-Habitable Rooms to Non-Habitable Rooms metres 6 5 to 8 storeys/up to 25 metres Habitable Rooms/Balconies to Habitable Rooms/Balconies 18 Habitable Rooms to Non-Habitable Rooms metres 12 Non-Habitable Rooms to Non-Habitable Rooms metres 9 9 storeys and above/over 25 metres Habitable Rooms/Balconies to Habitable Rooms/Balconies 24 Habitable Rooms to Non-Habitable Rooms metres 18 Non-Habitable Rooms to Non-Habitable Rooms metres 12	Partial noncompliance – Level 1- 3: Separations between balconies do not comply with the minimum 12m requirement. The reasons why are because the constraint of the site and the size of the balconies have been enlarged to ensure residential amenity. Therefore, it's considered acceptable in this circumstance.												
3F-2	Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.			Yes											
3G	Pedestrian Access and Entries														
3G-1	Building entries and pedestrian access connects to and addresses the public domain.			Yes											
3G-2	Access, entries and pathways are accessible and easy to identify.			Yes											
3G-3	Large sites provide pedestrian links for access to streets and connection to destinations.			N/A											
3H	Vehicle Access														
3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.			Yes – The modification proposes no changes to the existing driveway.											
3J	Bicycle and Car Parking														
3J-1	Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.														
	Design Criteria	For development in the following locations:		Yes –											

No.	SEPP 65 Apartment Design Guide		Compliance
		- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.	Proposed car parking spaces: 62 car spaces (including 5 accessible car spaces) provided. The approved traffic report made reference to the Apartment Design Guide (ADG) rates for Metropolitan Sub-Regional developments. Based on the approved rate, the required car parking space is 62. Therefore, compliance is achieved.
		The car parking needs for a development must be provided off street.	Yes
3J-2	Parking and facilities are provided for other modes of transport.		Yes
3J-3	Car park design and access is safe and secure.		Yes
3J-4	Visual and environmental impacts of underground car parking are minimised.		Yes
3J-5	Visual and environmental impacts of on-grade car parking are minimised.		Yes
3J-6	Visual and environmental impacts of above ground enclosed car parking are minimised.		Yes
Part 4 – DESIGNING THE BUILDING			
4A	Solar and Daylight Access		
4A-1	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.		
	Design Criteria	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 in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.	Yes 83.33% (50 units)
		A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	No 16.67% (10 units) The non-compliance is minor, being 1.67% over the maximum 15% of all apartments permitted to receive no solar access. As the development overall achieves more than the

No.	SEPP 65 Apartment Design Guide		Compliance
			minimum 70% of units to receive 2 hours solar access (i.e. 83.33% rather than the 70%), the non-compliance (max of 15% to receive no solar access) is considered acceptable in this circumstance.
4A-2	Daylight access is maximised where sunlight is limited.		Yes
4A-3	Design incorporates shading and glare control, particularly for warmer months.		Yes
4B	Natural Ventilation		
4B-1	All habitable rooms are naturally ventilated.		Yes
4B-2	The layout and design of single aspect apartments maximises natural ventilation.		Yes
4B-3	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.		
Design Criteria	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Yes 65% (39 apartments)	
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes –12m (max)	
4C	Ceiling Heights		
4C-1	Ceiling height achieves sufficient natural ventilation and daylight access.		
Design Criteria	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:		Yes
	Minimum ceiling height for apartment and mixed use buildings		
	Habitable rooms	2.7m	
	Non-habitable	2.4m	
	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	
	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use		
	These minimums do not preclude higher ceilings if desired.		
4C-2	Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.		Yes
4C-3	Ceiling heights contribute to the flexibility of building use over the life of the building.		Yes
4D	Apartment Size and Layout		
4D-1	The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.		

No.	SEPP 65 Apartment Design Guide		Compliance															
	Design Criteria	Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Yes					
		Apartment type	Minimum internal area															
Studio	35m ²																	
1 bedroom	50m ²																	
2 bedroom	70m ²																	
3 bedroom	90m ²																	
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Yes																
4D-2	Environmental performance of the apartment is maximised.																	
	Design Criteria	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Yes															
		In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Yes															
4D-3	Apartment layouts are designed to accommodate a variety of household activities and needs.																	
	Design Criteria	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Yes															
		Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Yes															
		Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1-bedroom apartments • 4m for 2- and 3-bedroom apartments.	Yes															
		The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Yes															
4E	Private Open Space and Balconies																	
4E-1	Apartments provide appropriately sized private open space and balconies to enhance residential amenity.																	
	Design Criteria	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m.	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Yes
		Dwelling type	Minimum area	Minimum depth														
Studio apartments	4m ²	-																
1 bedroom apartments	8m ²	2m																
2 bedroom apartments	10m ²	2m																
3+ bedroom apartments	12m ²	2.4m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Acceptable – Studio G02, Studio G03, Studio G05 and 3 Bed G06 are non-compliant. However, considering those																

No.	SEPP 65 Apartment Design Guide		Compliance										
			units can directly access the communal open space, it is considered acceptable in this circumstance.										
4E-2	Primary private open space and balconies are appropriately located to enhance liveability for residents.		Yes										
4E-3	Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.		Yes										
4E-4	Private open space and balcony design maximises safety.		Yes										
4F	Common Circulation and Spaces												
4F-1	Common circulation spaces achieve good amenity and properly service the number of apartments.												
	Design Criteria	The maximum number of apartments off a circulation core on a single level is eight.	Yes										
		For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	N/A										
4F-2	Common circulation spaces promote safety and provide for social interaction between residents.		Yes										
4G	Storage												
4G-1	Adequate, well-designed storage is provided in each apartment.												
	Design Criteria	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>	Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	Partial noncompliance – storage spaces have been provided at basement level for each unit. Furthermore, storage space within the apartment has been reduced to prioritise improved amenity outcomes including enhanced living area proportions and spatial efficiency, which results in a minor reduction in dedicated storage provision. It is considered acceptable in this circumstance.
	Dwelling type	Storage size volume											
	Studio apartments	4m ³											
1 bedroom apartments	6m ³												
2 bedroom apartments	8m ³												
3+ bedroom apartments	10m ³												
	At least 50% of the required storage is to be located within the apartment.												
4G-2	Additional storage is conveniently located, accessible and nominated for individual apartments.		Yes – additional storage provided at basement level										
4H	Acoustic Privacy												

No.	SEPP 65 Apartment Design Guide	Compliance
4H-1	Noise transfer is minimised through the siting of buildings and building layout.	Yes – Acoustic report provided in Appendix H .
4H-2	Noise impacts are mitigated within apartments through layout and acoustic treatments.	Yes
4J	Noise and Pollution	
4J-1	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	Yes
4J-2	Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Yes
4K	Apartment Mix	
4K-1	A range of apartment types and sizes is provided to cater for different household types now and into the future.	Yes
4K-2	The apartment mix is distributed to suitable locations within the building.	Yes
4L	Ground Floor Apartments	
4L-1	Street frontage activity is maximised where ground floor apartments are located.	Yes
4L-2	Design of ground floor apartments delivers amenity and safety for residents.	Yes
4M	Façades	
4M-1	Building facades provide visual interest along the street while respecting the character of the local area.	Yes
4M-2	Building functions are expressed by the façade.	Yes
4N	Roof Design	
4N-1	Roof treatments are integrated into the building design and positively respond to the street.	Yes
4N-2	Opportunities to use roof space for residential accommodation and open space are maximised.	Yes
4N-3	Roof design incorporates sustainability features.	Yes
4O	Landscape Design	
4O-1	Landscape design is viable and sustainable.	Yes
4O-2	Landscape design contributes to the streetscape and amenity.	Yes
4P	Planting on Structures	
4P-1	Appropriate soil profiles are provided.	Yes
4P-2	Plant growth is optimised with appropriate selection and maintenance.	Yes
4P-3	Planting on structures contributes to the quality and amenity of communal and public open spaces.	Yes
4Q	Universal Design	
4Q-1	Universal design features are included in apartment design to promote flexible housing for all community members.	Yes
4Q-2	A variety of apartments with adaptable designs are provided.	Yes
4Q-3	Apartment layouts are flexible and accommodate a range of lifestyle needs.	Yes
4S	Mixed Use	
4S-1	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.	N/A
4S-2	Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents.	N/A
4T	Awnings and Signage	
4T-1	Awnings are well located and complement and integrate with the building design.	Yes

No.	SEPP 65 Apartment Design Guide	Compliance
4T-2	<i>Signage responds to the context and desired streetscape character.</i>	N/A – no signage proposed as part of this application.
4U	Energy Efficiency	
4U-1	<i>Development incorporates passive environmental design.</i>	Yes
4U-2	<i>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</i>	Yes
4U-3	<i>Adequate natural ventilation minimises the need for mechanical ventilation.</i>	Yes
4V	Water Management and Conservation	
4V-1	<i>Potable water use is minimised.</i>	Yes
4V-2	<i>Urban stormwater is treated on site before being discharged to receiving waters.</i>	Yes
4V-3	<i>Flood management systems are integrated into site design.</i>	N/A
4W	Waste Management	
4W-1	<i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</i>	Yes – waste storage is located on ground floor however away from the building entry.
4W-2	<i>Domestic waste is minimised by providing safe and convenient source separation and recycling.</i>	Yes
4X	Building Maintenance	
4X-1	<i>Building design detail provides protection from weathering.</i>	Yes
4X-2	<i>Systems and access enable ease of maintenance.</i>	Yes
4X-3	<i>Material selection reduces ongoing maintenance costs.</i>	Yes

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

The object of Chapter 4 is to provide a Statewide planning approach for the remediation of contaminated land. Pursuant to Section 4.6 of the Resilience and Hazards SEPP the consent authority must be 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 site has previously been assessed by Joint Regional Planning Panel to be suitable for residential development and there have been no further activities on the site that would change this determination. The proposed modifications are predominantly internal and do not raise any potential impact or change to site suitability or compliance with the provision of this SEPP.

State Environmental Planning Policy (Sustainable Buildings) 2022

The Sustainable Buildings SEPP aims to encourage the design, delivery, and consistent assessment of sustainable buildings, monitor the emissions of material in the building construction, minimize the consumption of energy, reduce greenhouse gas emissions, minimize the consumption of mains supplied potable water, and ensure good thermal performance of buildings.

ESD Synergy has prepared an updated ESD, BASIX and NatHERS Report to support this modification. The updated BASIX Certificate number is 734318M_05 dated 1 June 2026 and the NatHERS Certificate number is 0012980490 dated 13 May 2026.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2.3 Division 5 – Electricity Transmission or Distribution

In accordance with Clause 2.48(2) of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, any development that is “within 5m of an exposed overhead electricity powerline”, the consent authority must:

- (a) Give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- (b) Take into consideration any response to the notice that is received within 21 days after the notice is given

The site faces existing powerlines along Percy Street, which are located within 5m of the proposed development. Therefore, Council must provide written notice to the electricity supply authority for the area and taken into consideration response to the notice that is received within 21 days after the notice has been given. The proposal is typical in nature for metropolitan Sydney and the relevant supply authority is not expected to provide any objection.

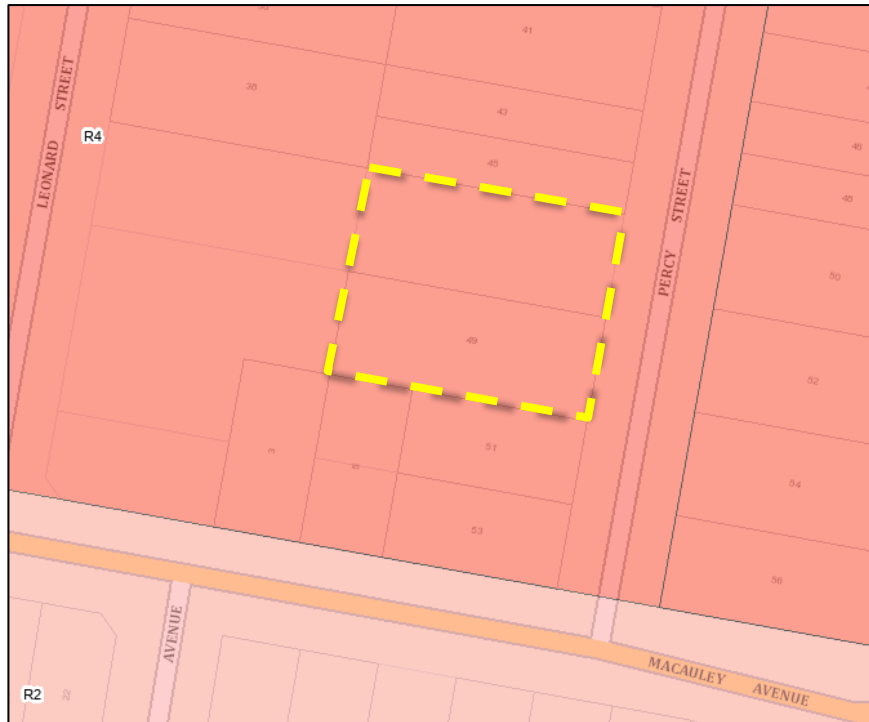
CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

The subject land is located within the Canterbury-Bankstown LGA, and the primary environmental planning instrument (EPI) currently in force is the *Canterbury-Bankstown Local Environmental Plan 2023 (LEP)*. The original application was assessed under Bankstown Local Environmental Plan 2015 and then the current Canterbury-Bankstown LEP 2023 which applies to all land within the Canterbury-Bankstown LGA. As such, the proposed modification is assessed against the following provisions:

Land Use Table – Zone R4 High Density Residential

The site is zoned R4 High Density Residential under Canterbury- Bankstown LEP 2023. The aims and objectives of the R4 High Density Residential zone are set out in the Land Use Table below.

The proposal is consistent with the objectives of the zone given it remains a high density residential development with a variety of dwellings.



Extract from NSW Planning Portal 2026

1 Objectives of zone

- *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.*

2 Permitted without consent

Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Community facilities; Dwelling houses; Early education and care facilities; Environmental facilities; Environmental protection works; Exhibition homes; Flood mitigation works; Home businesses; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Serviced apartments; Shop top housing

4 Prohibited

Any development not specified in item 2 or 3

Statutory Compliance Table

Control	Proposal	Complies
R4 High Density Residential	The proposal is defined as residential flat building which is a permissible development within the R4 zone.	Yes
4.3 Height of Buildings The height of the building is not to exceed 23m (Canterbury-Bankstown LEP 2023)	The approved height is 20.5m. The proposed development has a height of 22.71m.	Yes The modification proposed a minor increase to the height of 2.21m to accommodate latest standards. The proposed height does not exceed the LEP provisions.
4.4 Floor Space Ratio The maximum FSR is 2.1:1	Site Area: 2023m ² Permissible FSR (Affordable Rental Housing SEPP 2009): 2.1:1 Proposed FSR: 2.19:1	No However, it complies with Infill Housing SEPP FSR provisions.
4.6 Exceptions to Development Standards	A Clause 4.6 Variation Request is not required as the proposal complies with all relevant development standards.	N/A
5.10 Heritage Conservation	The site is not a heritage item and is not located in a heritage conservation area. The site is not in the vicinity of any heritage items.	Yes
5.21 Flood Planning	The site is affected by medium risk flooding. The original proposal has been assessed by Council and has been found to be satisfactory. The modifications are not such that this outcome would change.	Yes
6.1 Acid Sulfate Soils	The site is identified as Class 5 acid sulfate soils, which is low risk. Nevertheless, the proposal will adopt construction methods consistent with the BCA/NCC and/or Australian	Yes

Control	Proposal	Complies
	Standards to avoid acid sulfate soil risks.	
6.2 Earthworks	Only minor reconfiguration of layout in the basement levels. Therefore, the proposal is satisfactory as was found to be the case in the original DA.	Yes
6.3 Stormwater management and water sensitive urban design	No proposed changes to stormwater management as part of this application. Stormwater management has previously been assessed by council and is considered acceptable. The proposed Concept Stormwater Design has been submitted with this application (in Appendix E).	Yes
6.9 Essential Services	The site is already serviced with sewer, water and electricity.	Yes
6.15 Design Excellence	The proposal does not propose a new building or seeking development consent, therefore Design Excellence does not apply.	N/A

DRAFT PLANNING INSTRUMENTS

Section 4.15(1)(a)(ii) of the *EP&A Act* requires consideration of *the provisions of any publicly exhibited Draft Environmental Planning Instruments*.

No draft instruments are applicable.

CANTERBURY-BANKSTOWN DEVELOPMENT CONTROL PLAN

Section 4.15(1)(a)(iii) of the EP&A Act requires consideration of the provisions of any Development Control Plan. The Development Control Plan that is relevant to this development is the Canterbury-Bankstown Development Control Plan 2023.

An assessment of the proposed development against the applicable and relevant provisions of the DCP is provided in the table below.

DCP Clause	Controls	Proposal	Compliance						
Chapter 3 – General Requirements									
2	Off-street parking rates								
2.1	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. <table><tr><th>Land use</th><th>Car spaces</th><th>Bicycle spaces</th></tr><tr><td>Residential flat buildings/serviced apartments</td><td><u>Zones R4</u> 1 car space per 1 bedroom dwelling; 1.2 car spaces per 2 bedroom dwelling; 1.5 car spaces per 3 or more bedroom dwelling; 1 visitor car space per 5 dwellings.</td><td>1 visitor space per 10 dwellings</td></tr></table>	Land use	Car spaces	Bicycle spaces	Residential flat buildings/serviced apartments	<u>Zones R4</u> 1 car space per 1 bedroom dwelling; 1.2 car spaces per 2 bedroom dwelling; 1.5 car spaces per 3 or more bedroom dwelling; 1 visitor car space per 5 dwellings.	1 visitor space per 10 dwellings	The approved traffic report made reference to the Apartment Design Guide (ADG) rates for Metropolitan Sub-Regional developments. RMS Car Parking Rates for Metropolitan Sub-Regional: • 1-Bed: 0.6 spaces per unit • 2-Bed: 0.9 spaces per unit • 3-Bed: 1.4 spaces per unit • Visitor: 1 space per 5 units Based on the approved rates, the required car parking spaces: • 1-Bed: 21 x 0.6 = 12.6	Yes
Land use	Car spaces	Bicycle spaces							
Residential flat buildings/serviced apartments	<u>Zones R4</u> 1 car space per 1 bedroom dwelling; 1.2 car spaces per 2 bedroom dwelling; 1.5 car spaces per 3 or more bedroom dwelling; 1 visitor car space per 5 dwellings.	1 visitor space per 10 dwellings							

DCP Clause	Controls	Proposal	Compliance
		• 2-Bed: 35 x 0.9 = 31.5 • 3-Bed: 4 x 1.4 = 5.6 • Visitor: 60 ÷ 5 = 12 Required car parking space: 61.7 (62) Proposed car parking space: 62 Therefore, it complies.	
3.1	Development Engineering Standards		
	<u>Stormwater drainage systems</u> Objectives 1. To establish a high standard of stormwater drainage infrastructure within the site. 2. 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. 3. To ensure that buildings are not affected by inundation from stormwater runoff resulting from the 100-year ARI storm event. 4. 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. 5. To manage stormwater runoff and prevent damage to buildings and property and reduce hazardous flows. 6. To avoid the location of stormwater drainage infrastructure within tree driplines and deep soil zones. 7. 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.	Please refer to Concept Stormwater Design Plan (Appendix E) as part of this application.	Please refer to Concept Stormwater Design Plan (Appendix E) as part of this application.

DCP Clause	Controls	Proposal	Compliance
3.3	Waste Management		
3.18	In addition to clauses 3.1–3.10, residential flat buildings are to provide a communal bin storage area that is designed to integrate with Council's standard collect and return service by locating the bin storage area within 10m of a layback to the nominated collection point and ensuring safe parking for Council's service vehicle, without blocking driveways or traffic. Nominated collection points must avoid classified roads and roads with high vehicle and pedestrian traffic.	Please refer to the Waste Management Plan (Appendix I) as part of this application.	Please refer to the Waste Management Plan (Appendix I) as part of this application.
3.23	Residential flat buildings with 50 or more dwellings must provide a separate communal bin storage area for the storage of household items (e.g. clothing, mattresses, polystyrene, cardboard and electronic waste) awaiting collection through Council's Supplementary Recycling Service. The minimum area required is 9m ² and the design is to comply with the requirements of the applicable Waste Design for New Developments Guide.	The proposed development includes 60 units. A separate communal bin storage area is located on ground level with 8.8m ² .	Acceptable. Please refer to Waste Management Plan (Appendix I) as part of this application.
3.7	Landscape		
	Objectives 1. To integrate the landscape design with the overall design of the development. 2. To promote the retention and planting of large and medium size trees, and the healthy growth of trees in urban areas. 3. To provide deep soil zones to manage urban heat and water, and to allow for and support healthy plant and tree growth. 4. To contribute to the quality and amenity of communal open space, podiums and courtyards.	Please refer to Landscaped Plan (Appendix B) as part of this application.	Please refer to Landscaped Plan (Appendix B) as part of this application.
Chapter 5 – Residential Accommodation			
5.1	Former Bankstown LGA		
8.6			Yes

DCP Clause	Controls	Proposal	Compliance
	The minimum setback for a building wall to the primary street frontage is: (a) 3m for the sites at 1–9 Leonard Street and 74–80 Restwell Street in Bankstown; and (b) 6m for all other sites.	A minimum setback of 6m is provided.	
8.7	The minimum setback for a building wall to the secondary street frontage is 6m.	A minimum setback of 6m is provided.	Yes
8.9	For a building with three or more storeys, the minimum setback to the side and rear boundaries of the site is 4.5m provided the average setback is 0.6 multiplied by the wall height.	<u>Rear setbacks</u> Level 1- 4: 6m Above level 4: 8.64m <u>Side setbacks</u> Level 1–4: 6m Above level 4: 9m	Yes
8.11	The minimum setback for a basement level to the side and rear boundaries of the site is 2m.	A minimum setback of 2m is provided.	Yes
8.12	The minimum setback for a driveway to the side and rear boundaries of the site is 1m.	A minimum setback of 1m is provided.	Yes

6.3 SECTION 4.15(1)(B) LIKELY IMPACT OF THE DEVELOPMENT

Natural Environment

Flora, fauna, tree removal and landscape

No removal of trees or native species is proposed. Landscaping plans have been prepared by Site Image (**Appendix B**) and include ample new landscaping.

Water and soil management

No changes to the approved stormwater or erosion and sediment management measures are proposed. An updated Concept Stormwater Design Plans has been prepared by Apex Civil Engineers (refer to **Appendix E**).

Noise and vibration

No additional impacts are proposed as part of this modification. The modifications are minor in nature and relate predominantly to the internal layout configuration of the building. An updated Acoustical Assessment has been prepared by Harwood Acoustics (refer to **Appendix H**) to demonstrate no changes are proposed to acoustic conditions as part of this modification.

Built Environment

Height, Bulk and Scale

The modification proposes a minor increase to the height from 20.5m to 22.71m which complies with the 23m of maximum height control under the Canterbury-Bankstown LEP 2023. The increase in height is considered to be substantially the same as the approved development with a minor change as a result of more precise design and building requirements.

The bulk, scale and form of the approved development is maintained and no changes are proposed.

Internal Amenity and Acoustics

The modification has been assessed against the controls under Apartment Design Guide (ADG) as demonstrated in this report. The Acoustic Assessment prepared by Harwood Acoustics (refer to **Appendix H**) provides recommendations for consideration by the architect and a final design review that will be undertaken prior to the issue of a Construction Certificate.

Accessibility and BCA Compliance

An Accessibility Assessment Report and BCA Capability Statement Report (refer to **Appendix C** and **F**) have been undertaken by Allcert Group. The BCA Capability Statement Report evaluates whether the current design can achieve compliance with the Building Code of Australia (BCA), in accordance with Section 19 of the Environmental Planning & Assessment (Development Certification & Fire Safety) Regulation 2021, as well as the Access Codes relevant to the Disability (Access to Premises-Buildings) Standards 2010 (the Access to Premises Standards). The Accessibility Assessment Report assesses the proposed design and presents the findings of a detailed assessment against the Disability (Access to Premises – Buildings) Standards 2021 and Part D4 provisions of the BCA 2022. It identifies all non-compliances and provides recommendations to appropriately resolve the compliance departure.

Traffic and Transport

The accompanying updated Traffic Report (refer to **Appendix D**) confirms that the modifications to the proposed development are compliant with the relevant AS design criteria and SEPP 65 ADG. Swept Path Analysis indicates that all critical vehicle movements in the proposed car parking facility have been assessed and satisfy the design provision.

Waste Management

Dickens Waste Solutions has prepared an updated Waste Management Plan (refer to **Appendix I**). This plan includes the waste generated by demolition, construction and

operational phases. The proposed modifications include changes to the garbage room size on ground floor to comply with conditions in original approval.

Social and Economic Impacts

The changes to the internal and external layout of the development will have positive social impact as it will improve the safety, design and internal layout of the building. Improved amenity for residents in communal open spaces will allow for increased social interaction and have positive impacts on wellbeing with substantial landscaping and mass planting. The amendments will also secure development feasibility, thereby reassuring the delivery of additional housing.

Site Suitability

The suitability of the site was established with the granting of the original development consent no. 74/2017. The proposed modification of the approved development still complies with the relevant provisions contained within the various applicable SEPPs, LEP, DCP, NCC/BCA and Australian Standards. The proposed modifications do not raise additional issues in relation to the suitability of the site to accommodate the proposed residential flat building.

Submissions

The Consent Authority will need to consider any submissions received in response to the public exhibition of the proposed development.

The Public Interest

No public interest issues arise because of the proposed modifications. Council's intentions in imposing conditions to preserve the public interest are not affected, since the proposed modifications continue to give effect to those general intentions, in a more practical and achievable way. The proposed modifications do not result in any additional adverse impact.

7. CONCLUSION

The Section 4.55(2) Modification Application seeks to modify the development consent DA-74/2017 issued on 19 June 2017 by the Joint Regional Panel (JRPP) for demolition of existing buildings at 47-49 Percy Street, Bankstown and construction of a 6 storey residential flat building with 2 levels basement parking.

The proposed modification will maintain the nature and character of the development with minor internal and external changes to improve residential amenity and safety. In summary, we conclude that the proposed modification:

- Is considered substantially the same development as the development for which consent was originally granted;
- is appropriate when assessed by reference to the relevant matters for consideration under Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*;
- will have no adverse environmental impacts on the site or the properties in the vicinity of the site, given that there is no change to the overall final building form, scale, design, materials and function, as originally approved;
- Has been assessed against Canterbury-Bankstown LEP 2023 and achieves a sufficient level of compliance with the LEP and associated DCP;
- will be in the public interest based on these benefits and the lack of adverse impacts.

Overall, the development is suitable for the site and represents an orderly redevelopment of the land consistent with Councils vision and land use objectives. Given the above and having regard to the comprehensive assessment undertaken by this Statement, the proposed development is considered to be in the interest of the public pursuant to Section 4.15(1)(e) of the Environmental Planning & Assessment Act (the Act) 1979. The proposal is also considered to be substantially the same as originally approved and the modifications would result in negligible environmental impacts. Therefore, the modified development warrants consent from Council.