

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION REFUSAL

Application number	DA-30/2024 PAN-402805
Applicant	The Greek Orthodox Community Of New South Wales
Description of development	Demolition of existing buildings and construction of a five-storey mixed use development comprising of a 'Registered Club and 'Community Facility', 'commercial premises', 'function centres' 'food and drink premises' and 'business identification signage' with two levels of basement parking and associated landscaping. This application, being for community infrastructure and having a Capital Investment Value greater than \$5m, will be determined by the Sydney South Planning Panel on behalf of Council.
Property	206-214 Lakemba Street, Lakemba Lot B DP 369191, Lot A DP 369191, Lot 1 DP 9727, Lot 2 DP 16610, Lot B DP 356540, Lot B DP 359878, Pt. Lot 1 DP 601048, Pt. Lot 1 DP 601048
Determination	Refused Consent Authority ○ Sydney District or Regional Planning Panel
Date of determination	14 October 2024

Under section 4.18(1)(a) of the EP&A Act, notice is given that the above development application has been determined by refusing consent using the power in section 4.16(1)(b) of the EP&A Act, for the reasons specified below:

Reasons for refusal

1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to determine whether the proposal satisfies the relevant requirements contained within the following Environmental Planning Instruments:
 - a. Water Management Act 2000 -Sections 90(3) and 91(3) relating to Integrated Development;
 - b. State Environmental Planning Policy (Industry and Employment) 2021 – Clause 3.6 and Schedule 5 relating to business identification signage;
 - c. State Environmental Planning Policy (Resilience and Hazards) 2021 – Clause 4.6 relating to contaminated land; and
 - d. State Environmental Planning Policy (Sustainable Buildings) 2021 – Clause 3.2 relating to non-residential development.

2. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.3 (2) of the Canterbury Bankstown Local Environmental Plan 2023 relating to 'Height of buildings' and exceeds the maximum allowable height of building of 18m.
3. The Clause 4.6 Request to vary Clause 4.3(2) 'Height of buildings' of the Canterbury Bankstown Local Environmental Plan 2023 is not well founded and it has not been adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.15 of Canterbury Bankstown Local Environmental Plan 2023 as the development does not exhibit design excellence.
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to determine whether the proposal satisfies the following Clauses contained within Canterbury Bankstown Local Environmental Plan 2023:
 - a. Clause 5.21 – Flood Planning;
 - b. Clause 6.2 – Earthworks;
 - c. Clause 6.3 – Stormwater Management and Water Sensitive Urban Design; and
 - d. Clause 6.9 – Essential Services.
6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to determine whether the proposal satisfies the following Sections contained within Canterbury Bankstown Development Control Plan 2023:
 - a. Chapter 2.2 – Flood Risk Management;
 - b. Chapter 3.1 – Development Engineering Standards;
 - c. Chapter 3.6 - Signs;
 - d. Chapter 3.7 – Landscape;
 - e. Chapter 11.4, Section 5 – Landscaping;
7. The proposed development is unsatisfactory, pursuant to the provisions Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the following objectives and controls of the Canterbury Bankstown Development Control Plan 2023:
 - a. Chapter 3.2 – Parking;
 - b. Chapter 7.1, Section 2 – Active Street Frontages;
 - c. Chapter 7.1, Section 3 – Façade Design;
 - d. Chapter 7.1, Section 4 – Visual Bulk;
 - e. Chapter 7.1, Section 6 – Roof Design;
 - f. Chapter 7.1, Section 7 – Materials and Finishes;
 - g. Chapter 7.1, Section 8 – Awning Design;
 - h. Chapter 7.1, Control 9.3 – Access to Sunlight;
 - i. Chapter 7.1, Control 9.21 – Development Adjacent to Residential Zones;
 - j. Chapter 11.4, Section 3 – Building Envelopes;
 - k. Chapter 11.4, Section 4 – Streetscape;
 - l. Chapter 11.4, Section 6 – Pedestrian and Vehicular Links/Access;
 - m. Chapter 11.4, Section 7 – Building Articulation; and

n. Chapter 11.4, Section 8 – Overland Flow Path

8. As noted above, the proposal is deficient in information to allow for a detailed assessment against a number of key development and design controls. Subsequently a detailed assessment of the likely impacts of the development pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 could not be undertaken.
9. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development. Notwithstanding this, based on an assessment of the information submitted and given the number of variations sought, the site is not considered suitable for the proposed development.
10. Having regard to the previous reasons noted above, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

Right of appeal / request a review of the determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



Alice Pettini

DEVELOPMENT ASSESSMENT OFFICER

Person on behalf of the consent authority

For further information, please contact 9707 5515

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means Canterbury Bankstown Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Canterbury Bankstown Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney South Planning Panel.