



COUNCIL ASSESSMENT REPORT SYDNEY SOUTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSSH-159 – DA No. 30-2024
PROPOSAL	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.
ADDRESS	206-214 Lakemba Street, Lakemba Lot 1 DP 601048 Lot B DP 359878 Lot B DP 356540 Lot 2 DP 16610 Lot A DP 369191 Lot B DP 369191 Lot 1 DP 9727
APPLICANT	The Greek Orthodox Community of New South Wales
OWNER	The Greek Orthodox Community of New South Wales
DA LODGEMENT DATE	2 February 2024
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 5 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as: The Development is for a Community Facility and has a capital investment value of more than \$5 million.
CIV	Overall Development: \$22,206,597.00 (excluding GST) Community Facility: \$12,500,000.00 (excluding GST)
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none">• State Environmental Planning Policy (Biodiversity and Conservation) 2021;• State Environmental Planning Policy (Transport and Infrastructure) 2021;• State Environmental Planning Policy (Industry and Employment) 2021;• State Environmental Planning Policy (Planning Systems) 2021;

	<ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021; • Draft State Environmental Planning Policy (Environment); • Canterbury Bankstown Local Environmental Plan 2023 (CLEP 2023); and • Canterbury Bankstown Development Control Plan 2023 (CBDCP 2023).
AGENCY REFERRALS	<ul style="list-style-type: none"> • Transport for New South Wales (TfNSW); and • Ausgrid
TOTAL & UNIQUE SUBMISSIONS	Nil
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Updated Architectural Plans; • Statement of Environmental Effects; • Response Letter from Katris Architects dated 19 July 2024 • Clause 4.6 Variation Request Report; • Updated Flood Impact Assessment Report; • Updated Stormwater Drainage Plans; • Updated Accessibility Report; • Updated Acoustic Report and associated Memos; • Updated BCA Compliance Report; • Services Plan (Electrical, Hydraulic and Fire and Mechanical); • Updated Geotechnical Report and associated review report; • Updated Preliminary and Detailed Site Investigation Report; and associated review report; • Updated Remediation Action Plan and associated review report; • Updated Landscape Plan and Landscape Response; • Updated Traffic Report; • Survey Plan; • Plan of Management.
PREVIOUS BRIEFINGS	<ul style="list-style-type: none"> • Preliminary Briefing: 11 March 2024 • Follow up Briefing: 14 June 2024
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	14 October 2024
PLAN VERSION	D Dated 15.7.24
PREPARED BY	Alice Pettini
DATE OF REPORT	14 October 2024

EXECUTIVE SUMMARY

This matter is reported to the Sydney South Planning Panel as the proposed Community Facility development exceeds a capital investment value of \$5 million in accordance with Section 2.19 and Schedule 6 of SEPP (Planning Systems) 2021.

Development Application No. DA 30/2024 seeks consent for the 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.

DA-30/2024 has been assessed against the relevant provisions within the:

- Water Management Act 2000;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023);
- Canterbury Bankstown Development Control Plan 2023 (CBDPC 2023) and
- Canterbury-Bankstown Local Infrastructure Contributions Plan 2022.

The application was advertised for twenty-eight (28) days between 21 February 2023 and 19 March 2023 in accordance with Council's Community Participation Plan. No submissions were received by Council during the notification period and the assessment of the application.

The attached assessment report provides for a detailed assessment of the site and its surrounds and the manner in which this development application addresses the relevant planning legislation.

As outlined within the assessment report, the proposal is deficient in information to facilitate a detailed assessment of the application against relevant planning legislation and fails to exhibit design excellence as required by Clause 6.15 of CBLEP 2023. Furthermore, the proposal in its current form seeks variations to key development controls pertaining to building height, design of the overland flow path and parking. As a result, it is determined that the development, as proposed, does not adequately protect the environmental amenity of the area and is inconsistent with the desired future character of the locality. For these reasons, it is concluded that the development is not suitable for the site and should be refused.

1. THE SITE AND LOCALITY

1.1 The Site

The subject site is known as 206-214 Lakemba Street, Lakemba and is zoned B2 Local Centre in accordance with Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023). The site is irregular in shape due to the inset from within the south-eastern corner of the site and comprises a total site area of 5,119m². The site comprises a frontage to Lakemba Street of 86.88m, north-eastern boundary depth of 61.315m, south-western boundary depth of 61.925m and rear boundary width of 77.55m.

A right of footway alongside a number of drainage easements traverse the site. The site is flood affected, primary along the western portion of the site.

The site is primarily level with exception to the minor rise within the south-eastern corner of the site. The site slightly slopes from the north-west to the north-east of the site by approximately 1.8m.

The site currently comprises a two storey building that accommodates the Greek Community Club, single storey building that comprises shops as well as a dwelling and associated structures.



Figure 1 – Aerial Photograph (Site outlined in red)
Source: Nearmap 2024

1.2 The Locality

The site is located on the fringe of the Lakemba Local Centre which is zoned B2 Local Centre in accordance with CBLEP 2023.

A three storey commercial building directly adjoins the site to the east.

The rear boundary adjoins R4 High Density Zoned land which is currently vacant with residential dwellings and a medical centre located beyond. A Development Application (DA) (DA-55-2021) for the rear vacant allotment was approved by the Sydney South Planning Panel on 25 August 2022 for the construction of three residential flat buildings ranging from 5 to 10 storeys with basement level car parking and open space areas and a new roadway to be dedicated to Council and Torrens title subdivision. Construction is yet to commence. A modification application for this site (DA-55-2021-B) is currently under assessment by Council for *Internal and external alterations including formation of three additional apartments and alterations to approved apartment mix and layouts, reallocate storage areas from lower ground to basement levels, amend basement design, remove rooftop common open space, amended location, size and number of windows [Section 4.55(1A)]*.

A two storey residential flat building directly adjoins the site to the west. This land is also zoned R4 High Density Residential.

Opposite the site, the northern side of Lakemba Street is zoned R4 High Density Residential and currently consists of single and two storey residential dwellings as well as Lakemba Baptist Church.

The site is located approximately 500m (walking distance) to Lakemba Railway Station located to the south-east of the site. Bus Stops are located along Lakemba Street, the closest being approximately 120m west of the site.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for the 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. A 3D render of the proposed development is provided below:



Figure 2 – 3D Render of the Proposed Development
Source: Katris Architects

The proposal is broken down as follows:

Basement Level 2

- 58 vehicle parking spaces;
- 14 motorcycle spaces;
- 29 bicycle parking spaces;
- Plant room; and
- Lift lobby serviced by 3 lifts.

Basement Level 1

- 52 vehicle parking spaces;
- 4 motorcycle parking spaces;
- Switch and fire pump room;
- Archival storage room;
- Goods lift and lift lobby; and
- Plant rooms and garbage storage room.

Ground Floor

- A porte-cochere.
- 4 shops fronting Lakemba Street.
- Lift lobby;
- Performance theatre;
- Archival room;
- Arts and Cultural Exhibition and Sales Area;
- Display Area;
- Kitchen and Bar area;
- Reception Area and amenities;
- 21 vehicle parking spaces;
- Loading dock; and
- Landscaping.

Level 1

- Members lounge with poker machines and gaming room;
- Kitchen and bar area;
- 3 function rooms (2 of which are provided with stage facilities);
- Kids play area;
- Balcony spaces;
- Reception area and toilet amenities;
- Multi-purpose members lounge;
- Siting area and gallery; and
- Lift lobby and feature void.

Level 2

- 6 meeting rooms;
- President and board room;
- 6 office spaces;
- Gallery and toilet amenities;
- Balcony spaces; and
- Lift lobby and feature void.

Level 3

- 3 meeting rooms;
- 9 office spaces;
- Restaurant;
- Toilet amenities;
- Balcony spaces; and
- Lift lobby.

Level 4

- Reception lounge and amenities (including kitchen and toilets);
- Informal seating area;
- Lift access.

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control		Proposal
Site area		5,119m ²
GFA		7,202.1m ²
FSR		N/A: 1.41:1
Clause 4.6	Requests	Yes – Clause 4.3 Height of Buildings
Max Height		20.84m (Applicant's calculation)

Car spaces	Parking	131 vehicle parking spaces 18 motorcycle parking spaces 29 bicycle parking spaces
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2.2 Background

The development application was lodged on 2 February 2024. A chronology of the development application since lodgment is outlined in **Table 2**.

Table 1: Chronology of the DA

Date	Event
3 January 2024	Application submitted to Council by applicant.
2 February 2024	Application lodged with Council.
9 February 2024	DA referred to external agencies
21 February 2024	Commencement of advertising for a period of 28 days. The advertising period is to conclude on 19 March 2024.
11 March 2024	Preliminary Briefing with SSPP
19 March 2024	Advertising period concluded. No submissions received.
12 and 21 April 2024	Additional Information Request Letters issued by Council. The information was due to be submitted by 10 May 2024.
22 April 2024	Applicant requested an extension to provide the additional information until 11 June (SSPP granted extension).
11 June 2024	Additional information received by Council.
24 June 2024	Additional Briefing with SSPP. As the information submitted by the Applicant on 11 June 2024 was deficient of information requested, the SSPP provided the Applicant the opportunity to withdraw the DA given the number of matters outstanding or alternatively 3 weeks to provide outstanding information.
28 June 2024	Council emailed the SSPP to advise that the Applicant did not wish to withdraw the Application and that they requested a further 3 week extension to submit outstanding documentation. On this basis, Council suggested proceeding to determination of the Application in August 2024.
4 July 2024	Panel Secretariat responded to Council's email dated 28 June 2024 and advised that determination date would occur on 26 August 2024.

10 July 2024	Meeting occurred with Panel Chair and Secretariat to discuss emails sent between 4-10 July 2024. At this meeting it was determined by the Panel to provide the Applicant the opportunity (as requested by the Applicant) to resubmit information to address the matters raised in Council's initial RFIs dated 12 and 21 April 2024 as well as the matters outlined in the Briefing Note discussed at the meeting on 24 June 2024. The information was due to be submitted to Council on 19 July 2024. The Application would then proceed to a determination meeting (based on the information submitted on 19 July 2024) in early October 2024. The Applicant was informed of such via email on the same day.
19, 22 and 23 July	Applicant uploaded additional information to the Planning Portal.
25 July 2024	Applicant requested an extension to provide peer review of the Contamination Reports (and subsequent updated version of main report). The request was asked of the Panel and granted. An extension until 1 August 2024 to provide outstanding information was provided.
2 August 2024	Outstanding Contamination Reports and peer reviews uploaded to the Planning Portal by the Applicant.

The assessment undertaken within this report is based on the information submitted on 19, 22, 23 July and 2 August 2024.

The DA assessment time is currently at 245 days as of 4 October 2024.

2.3 Site History

An informal pre-DA was held with the Applicant's Architect and Town Planner on 28 October 2022. The Applicant's consultant team were advised that new controls for the site were imminent and that any future development would need to consider such controls. Preliminary comments regarding Infrastructure and Resource Recovery were also provided at the meeting.

A DA was recently approved for the site that directly adjoins the rear of the subject site, known as 5-7 Croydon Street, Lakemba. The DA (DA-55-2021) was approved by the Sydney South Planning Panel on 25 August 2022 for the Construction of three residential flat buildings ranging from 5-10 storeys (144 dwellings) with basement level car parking and open space areas and a new roadway to be dedicated to Council. The Application also approved Torrens title subdivision to create separate parcels for the laneway and the development site, and strata subdivision of the apartments. The approved laneway runs along the entire length of the rear boundary (southern boundary) of the site subject to the DA under assessment (DA-30-2024). The laneway provides an 8.9m setback from the rear boundary to the new subdivided allotment that contains the approved residential flat development.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (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*
 - (iii) *any development control plan, and*
 - (iiia) *any 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*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
that apply to the land to which the development application relates,
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant and considered below:

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023);
- Canterbury Bankstown Development Control Plan 2023 (CBDCP 2023) and

- Canterbury-Bankstown Local Infrastructure Contributions Plan 2022.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

Water Management Act 2000

A Geotechnical Report was requested by Council during the assessment phase of the subject DA. The initial report provided had inconsistencies and there was concern that no groundwater monitoring was allowed for or undertaken and therefore the recommendations were inconclusive as to whether the development triggers Integrated Development.

A revised Geotech report was requested of the Applicant to determine whether the proposal triggers Integrated Development. There was concern that it would be given the site is flood affected and comprises two levels of basement parking which has similar characteristics to the development approved to the south of the site (DA-55-2021) which was Integrated Development.

A revised Preliminary Geotechnical Investigation Report was prepared by Remedis Remedial Engineering dated 19 July 2024. The report concluded that the groundwater monitoring wells “did not appear to hold any groundwater during our investigation and during our brief groundwater monitoring period”. However, despite this finding, it was recommended that a drained basement is likely feasible in the context of the proposed development and the encountered subsurface conditions. This recommendation would typically require concurrence from WaterNSW pursuant to Sections 90(3) and 91(3) of the Water Management Act 2000 due to potential aquifer interference. Given the vague nature of the wording of the report and the lack of confirmation as to whether the development triggers Integrated Development, it has not been referred to WaterNSW during this assessment process.

The report also recommends that additional geotechnical input is to be carried out prior to and/or during construction, including drilling additional boreholes and regular groundwater monitoring approximately 3 months prior to construction commencement and during the construction phase. Typically, this type of monitoring occurs prior to DA lodgement to facilitate the preparation of the Geotech report to ensure the Development Application can follow the appropriate and correct planning determination pathways. This has not been undertaken and therefore it is considered that insufficient information has been provided to determine whether the proposed development triggers Integrated Development. In addition, it is noted that Clause 4.47(2) of the *Environmental Planning and Assessment Act 1979* notes that “*nothing in this section required the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent*”. For the reasons outlined within this report, it is recommended that the Application be refused.

Furthermore, the Applicant noted that the revised Geotech report was peer reviewed by another geotechnical engineer at the firm, however the report does not indicate that the review was undertaken by such person and therefore there is concern as to whether this was done, and if so, whether any comments provided by the reviewer was incorporated into the revised report.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022; and
- Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023).

A summary of the key matters for consideration arising from these State and Local Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3

EPI	Matters for Consideration	Compliance		
		Y	N	NA
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2 State and Regional Development <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 of Schedule 6 as the proposal is for a Community Facility with a capital investment value of greater than \$5 million Schedule 6 Regionally significant development	✓		
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas	✓		
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3 Advertising and signage <ul style="list-style-type: none"> • Division 2 Control of advertisements <ul style="list-style-type: none"> ◦ 3.6 Granting of Consent to signage Schedule 5 Assessment criteria		✓	
State Environmental Planning Policy (Resilience and Hazards) 2021	Chapter 4 Remediation of land <ul style="list-style-type: none"> • Section 4.6 requires a consent authority to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, the consent authority must be satisfied that the land is suitable in a contaminated state for the proposed 		✓	

EPI	Matters for Consideration	Compliance		
		Y	N	NA
	use. If the land requires remediation to be undertaken to make it suitable for the proposed use, the consent authority must be satisfied that the land will be remediated before the land is used for that purpose.			
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2 Infrastructure Division 5 Electricity transmission or distribution – Subdivision 2 <ul style="list-style-type: none"> ○ 2.48 Determination of development applications—other development Division 17 Roads and traffic – subdivision 2 <ul style="list-style-type: none"> ○ 2.119 Development with frontage to classified road ○ 2.122 Traffic-generating development 		✓	
State Environmental Planning Policy (Sustainable Buildings) 2022	Chapter 3 – Standards for non-residential development Clause 3.2 – Development Consent for Non-Residential Development		✓	
Canterbury-Bankstown Local Environmental Plan 2023	<ul style="list-style-type: none"> • Clause 1.2 – Aims of Plan • Clause 2.3 – Zone objectives and Land Use Table • Clause 2.7 – Demolition requires development consent • Clause 4.3 – Height of buildings • Clause 4.6 – Exceptions to development standards • Clause 5.21 – Flood Planning • Clause 6.2 – Earthworks • Clause 6.3 – Stormwater Management and Water Sensitive Urban Design • Clause 6.4 – Biodiversity • Clause 6.9 – Essential Services • Clause 6.15 – Design Excellence 		✓	

State Environmental Planning Policy (Planning Systems) 2021

Clause 2.19(1) of Part 2.4 of SEPP (Planning Systems) 2021 reads as follows;

Development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act.

Schedule 6 of SEPP (Planning Systems) 2021, in part, reads;

5 *Private Infrastructure and Community Facilities over \$5 million*

Development that has an estimated development cost of more than \$5 million for any of the following purposes—

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) affordable housing, child care centres, **community facilities**, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

The Capital Investment Value (CIV) of the proposed community facility element of the development exceeds \$5 million (\$12,500,000.00). The development therefore qualifies as being a 'regionally significant development' and the Sydney South Planning Panel are the determining authority.

The following communication / consultation of the key issues has occurred with the Panel in relation to this development;

11 March 2024

The Panel members and Council's assessment staff attended the site to undertake a site inspection. A Preliminary Briefing of the Application occurred between the Panel and Council Staff.

24 June 2024

The Applicant (and their consultants) and Council's assessment staff attended the Assessment Briefing. This meeting was based on the information provided by the Applicant, and received by Council, on 11 June 2024. The minutes of the Assessment Briefing were recorded as follows:

The Panel notes council's Assessment Briefing Report and the matters discussed with the applicant and council during the briefing. In particular, the Panel notes:

- A partial RFI response was received on 11 June.*
- The Applicant indicated key changes in response to the RFI which include: response to DRP comments, activation along Lakemba Street frontage, improved landscaped area and deep soil zones, BCA requirements, changes to internal layout and addition of solar panels.*
- Council's preliminary assessment indicates that many of the matters in the RFI have not been addressed and that some of the supporting studies have been lodged in draft form. Key matters include:*
 - Whether the development is integrated development has still not been clarified in the Geotech Report,*
 - Compliance/justification with Part 11.4 Croydon Street Precinct of the DCP, particularly setback and parking in overland flow path.*
- If it is integrated development, the Applicant should consider withdrawing the DA, due to the different processes and the extent of other information that is still required to address other issues.*
- The Applicant would prefer to provide further information rather than withdraw the application, as the development provides a facility for the Greek community.*
- The revised application has been referred within council and will be considered at a Design Review Panel meeting.*
- Rereferral to Ausgrid and TfNSW has occurred.*

Next steps

- *Council to issue a version of the briefing note with its preliminary comments on the RFI response to the applicant by 25 June.*
- *Timing for finalisation of supporting studies/information by the applicant is uncertain, but likely to take at least 3 weeks. Applicant to advise council within the week whether application is to be withdrawn or the anticipated timeframe for providing information;*
- *If necessary, Council and the applicant should meet over the next week to discuss the shortfall of information and to clarify next steps.*

28 June 2024

Council emailed the Panel to advise that the Applicant did not wish to withdraw the Application and that they requested a further 3 week extension to submit outstanding documentation. On this basis, Council suggested proceeding to determination of the Application in August 2024.

4 July 2024

Panel Secretariat responded to Council's email dated 28 June 2024 and advised that determination date would occur on 26 August 2024.

10 July 2024

A further meeting occurred with Panel Chair and Secretariat to discuss emails sent between 4-10 July 2024. At this meeting it was determined by the Panel to provide the Applicant the opportunity (as requested by the Applicant) to resubmit information to address the matters raised in Council's initial RFIs dated 12 and 21 April 2024 as well as the matters outlined in the Briefing Note discussed at the meeting on 24 June 2024. The information was due to be submitted to Council on 19 July 2024. The Application would then proceed to a determination meeting (based on the information submitted on 19 July 2024) in early October 2024. The Applicant was informed of such via email on the same day.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The proposal has been assessed against the relevant aims and objectives of the policy which seeks to protect remaining native vegetation within urban areas. It is considered that the site does not contain remnant native vegetation and is consistent with the aims of the instrument.

The proposed development seeks approval for the removal of fifteen (15) trees on site and two (2) on neighbouring allotment. The proposed development was referred to Council's Tree Management Officer for assessment and was found to be acceptable, subject to conditions. As such, the proposal is considered suitable with respect to the requirements of the SEPP. However, in the event the Application could be supported, the proposed removal of trees 8 and 9 on the neighbouring property (194-198 Lakemba Street) could not be granted as they are outside of the subject site's boundary to which this application applies.

Chapter 6 Water catchments

The subject site is not located within the Georges River Catchment and therefore the provisions within this Chapter do not apply to the proposal.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 Advertising and signage

Chapter 3 Advertising and Signage of this SEPP aims to ensure advertising and signage relevant to the proposed development is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of a high-quality design and finish. Despite Drawing D042 showing multiple signs to be installed at the property, the response letter prepared by Katris Architects dated 19 July 2024 notes that only one sign is proposed to be installed on the building. Page 3 notes that *“all other signs that are not exempt from obtaining approval from Council or otherwise. Such as shop/retail outlets will be subject to further submissions to be provided to Council at a later date by a prospective tenant”*. Therefore, it recommended that as part of any future DA, the architectural plans are amended to solely show the signs that approval are sought for, to avoid confusion.

Notwithstanding the above, the proposed sign to be installed on the building is to be against Clause 3.6 of the SEPP and the contents of Schedule 5. Drawing D042 does not comprise any dimensions of the proposed sign. The dimensions cannot rely on the proposed streetscape elevation provided as the elevation is splayed and therefore may not be accurate. The Applicant was requested to provide dimensions of the proposed signage through-out the assessment process, however, did not provide it within the information submitted.

In light of the above, insufficient information has been provided to undertake a detailed assessment of the proposed sign against the relevant provisions contained in Clause 3.6 and Schedule 5 of SEPP (Industry and Employment) 2021.

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 requires the consent authority to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

Clause 4.6(1) of Chapter 4 of SEPP (Resilience and Hazards) 2021 reads as follows;

(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 site has a history of mixed use involving the Greek Orthodox Centre and Warehouse. The warehouse has been used as a printing facility and featured a flammables storage building licensed to hold up to 5,000 litres of Class 1 and Class 2 substances.

A Geotechnical Report, Stage 1 and 2 Preliminary and Detailed Site Investigation Report as well as a Remediation Action Plan was submitted by Remedis Remedial Engineering. Council's Environmental Health Officers reviewed the original reports provided by the Applicant in June and raised concerns regarding potential data gaps within the reports. The Applicant was therefore requested for these reports to be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant.

The Applicant provided revised contamination reports in July which were reviewed by Reditus. The review concluded that *"Based on the review of the PSI-DSI report and the consultation with Remedis following preparation of the DSI report, Reditus consider the DSI report has investigated several aspects of the site including asbestos and lead contamination in shallow soils. However, several aspects of the PSI-DSI require further assessment to inform Councils evaluation of the site under section 4.6 of SEPP Resilience and Hazards 2021, which include:*

- Assessment of groundwater in relation to the proposed finished floor level (17.1m AHD) of the proposed basement. At a minimum, groundwater monitoring wells should be installed to 13.1m AHD, which is approximately 12 m below the existing ground level to assess where a source volatile contamination in groundwater exists beneath the proposed development.*
- Further characterisation of Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) - the site features a fire sprinkler system in which fire suppressants may have been used. Although the soil sampling reported relatively low concentrations of PFAS, additional sampling should be undertaken to identify the source of PFAS and delineate the extent of PFAS contaminants in soil.*
- Further characterisation of volatile contaminants beneath the warehouse and flammable storage enclosure. Due to the complex nature of contamination at the site, Canterbury Bankstown Council may request a Site Audit in accordance with the Contaminated Land Management Act 1997 and Section 5 of the Canterbury Bankstown Contaminated Land Policy 2024*

Council's Environmental Health Officer has reviewed the revised documentation submitted and agrees with the recommendations of the review. And such, Council's Environmental Health officer provides the following comments:

An NSW Environment Protection Authority accredited site auditor must be appointed to audit reports compiled as part of the contaminated land assessment, remediation, and validation process.

Prior to consideration of development consent, a site audit statement and Site Audit Report must be provided to Council from the site auditor that clearly states that the site is, or can be, made suitable for the intended use. The site audit statement and site audit Report must include any restrictions or management requirements for the site.

The site audit statement and site audit report must be submitted to Council in writing.

In light of the above comments, the insufficient information has been submitted to determine whether the proposal satisfies Clause 4.6(1) of SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Division 5 Electricity transmission or distribution

Clause 2.48(1)(b) of Division 5 of SEPP (Transport and Infrastructure) 2021 requires proposed developments that include works within 5m of an exposed overhead electricity power line be referred to the relevant electricity supply authority.

Ausgrid have reviewed the proposal and raise no objection, subject to conditions being imposed in regard to proximity to overhead powerlines, underground cables and existing poles as well as proposed new or modified connections.

Division 17 Roads and traffic

In accordance with Clause 2.119 of Subdivision 2 of Division 17, SEPP (Transport and Infrastructure) 2021 requires that the consent authority be satisfied that development with frontage to classified road meets the requirements as set out in subclause 2 and reiterated below:

- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Transport for NSW responded and advised that this portion of Lakemba Street is unclassified regional road and is therefore under the care and control of Council. As such, the proposed access arrangement and civil works on Lakemba Street shall be designed and constructed to the satisfaction of Council as the relevant road authority. Council's Traffic Engineer has reviewed the application and comments provided are discussed later within this report against the relevant controls.

On this basis, no further assessment against Clause 2.119 of the SEPP (Transport and Infrastructure) 2021 is required.

State Environmental Planning Policy (Sustainable Buildings) 2021

Chapter 3 of State Environmental Planning Policy (Sustainable Buildings) 2021 (Sustainable Buildings SEPP) provides standards for non-residential development. The Chapter applies to development, other than development for the purposes of residential accommodation, that involves, the erection of a new building, if the development has an estimated development cost of \$5 million or more. Therefore, it applies to the subject proposal.

Clause 3.2 states the following:

- (1) *In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—*
 - (a) *the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,*
 - (b) *a reduction in peak demand for electricity, including through the use of energy efficient technology,*
 - (c) *a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,*
 - (d) *the generation and storage of renewable energy,*
 - (e) *the metering and monitoring of energy consumption,*
 - (f) *the minimisation of the consumption of potable water.*
- (2) *Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.*

As outlined within Clause 3.2(2), development consent must not be granted unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified. The Applicant has not considered the above requirements, despite being asked to by Council multiple times. Therefore, the requirements of Clause 3.2 have not been satisfied and form part of the reasons for recommending refusal.

Canterbury Bankstown Local Environmental Plan 2023

The relevant provisions in the Canterbury Bankstown Local Environmental Plan 2023 were taken into consideration as outlined within **Table 4** below:

Table 4

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023					
			Compliance		
			Y	N	N/A
Cl. 1.2	Aims of Plan	Achieved	Y		
Cl. 2.1	Land use zones	Achieved	Y		
Cl. 2.2	Zoning of land to which Plan applies - Land	B2 Local Centre.	Y		

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

			Compliance		
			Y	N	N/A
	Zoning Map	Proposed 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. All proposed uses are permitted with consent.			
Cl. 2.3	Zone objectives and Land Use Table	Achieved.	Y		
Cl. 2.4	Unzoned land	N/A			N/A
Cl. 2.5	Additional permitted uses for particular land	N/A			N/A
Cl. 2.6	Subdivision—consent requirements	N/A			N/A
Cl. 2.7	Demolition requires development consent	Proposal involves demolition.	Y		
Cl. 2.8	Temporary use of land	N/A			N/A
Cl. 3.1	Exempt development	N/A			N/A
Cl. 3.2	Complying development	N/A			N/A
Cl. 3.3	Environmentally sensitive areas excluded	N/A			N/A
Cl. 4.1	Minimum subdivision lot size - Lot Size Map	N/A			N/A
Cl. 4.1AA	Minimum subdivision lot size for community title schemes	N/A			N/A
Cl. 4.1A	Minimum lot sizes and special provisions for dual occupancies	N/A			N/A
Cl. 4.1B	Minimum lot sizes and	N/A			N/A

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

			Compliance		
			Y	N	N/A
	special provisions for certain dwellings				
Cl. 4.1C	Minimum lot sizes for certain land	N/A			N/A
Cl. 4.3	Height of buildings - Height of Buildings Map	<p>Standard: 18m Proposed: Unknown</p> <p>Require further information. The plans now indicate a lift overrun. A further section is required to be provided through this point that also shows the ENGL directly under to be able to calculate height at that point. There is concern that given the slope of the site, the extent of the proposed breach could be greatest at this point.</p> <p>Based on the calculations provided by the Applicant, the proposed building comprises a max height of 20.84 (2.84m or 15.7%).</p>		N	
Cl. 4.4	Floor space ratio - Floor Space Ratio Map	<p>Standard: N/A Proposed: N/A</p>			N/A
Cl. 4.5	Calculation of floor space ratio and site area	N/A			N/A
Cl. 4.6	Exceptions to development standards	Refer to comment [1] below.		N – refer to comment [1] below	
Cl. 5.1	Relevant acquisition authority	N/A			N/A
Cl. 5.1A	Development on land intended to be acquired for public purposes	N/A			N/A
Cl. 5.2	Classification and reclassification of public	N/A			N/A

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

			Compliance		
			Y	N	N/A
	land				
Cl. 5.4	Controls relating to miscellaneous permissible uses	N/A			N/A
Cl. 5.6	Architectural roof features	N/A			N/A
Cl. 5.7	Development below mean high water mark	N/A			N/A
Cl. 5.10	Heritage conservation - Schedule 5 - Heritage Map	N/A			N/A
Cl. 5.11	Bush fire hazard reduction - Rural Fires Act 1997	N/A			N/A
Cl. 5.12	Infrastructure development and use of existing buildings of the Crown	N/A			N/A
Cl. 5.13	Eco-tourist facilities	N/A			N/A
Cl. 5.20	Standards that cannot be used to refuse consent – playing and performing music	N/A			N/A
Cl. 5.21	Flood Planning	Council's Asset Planner has reviewed the application and requires further information to determine compliance with the relevant provisions of this clause. Comments received are provided later within this report.		N	
Cl. 5.23	Public bushland	N/A			N/A
Cl. 6.1	Acid Sulfate soils - Acid Sulfate Soils Map	N/A			N/A
Cl. 6.2	Earthworks	As raised earlier within this report, the Geotechnical report submitted is insufficient and therefore further information is required to determine compliance with the relevant provisions of		N	

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

			Compliance		
			Y	N	N/A
		this clause.			
Cl. 6.3	Stormwater management and water sensitive urban design	Council's Asset Planner has reviewed the application and requires further information to determine compliance with the relevant provisions of this clause. Comments received are provided later within this report.		N	
Cl. 6.4	Biodiversity	Council's Tree Management Officer raises no objection, subject to conditions.			
Cl. 6.5	Riparian land and watercourses	N/A			N/A
Cl. 6.6	Limited development on foreshore area	N/A			N/A
Cl. 6.7	Development in areas subject to aircraft noise	N/A			N/A
Cl. 6.8	Airspace operations	N/A			N/A
Cl. 6.9	Essential services	<p>Council's Traffic Engineer has raised concerns regarding the proposed vehicular access to the site. Comments received are provided earlier within this report.</p> <p>Council's Assets Planner has raised concerns regarding the proposed stormwater drainage design at the site. Comments received are provided later within this report.</p> <p>A substation has been incorporated within the design. However, Council's Assets Planner has raised concern regarding its</p>		N	

CANTERBURY BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

			Compliance		
			Y	N	N/A
		height above flood planning level.			
Cl. 6.10	Active street frontages	N/A			N/A
Cl. 6.11	Location of sex services premises	N/A			N/A
Cl. 6.12	Special provisions for shop top housing	N/A			N/A
Cl. 6.13	Special provisions for centre-based child care facilities	N/A			N/A
Cl. 6.14	Restrictions on development in Zone B4	N/A			N/A
Cl. 6.15	Design excellence	The application was referred to the Design Review Panel for consideration. As outlined within Attachment C that accompanies this report, the proposal does not exhibit Design Excellence.		N	
Cl. 6.21	Restrictions on development in Zones B1, B2 and B5	No residential component proposed.	Y		
Cl. 6.28	Restriction on development on land in Area 2	N/A			N/A
Cl. 6.30	Prohibited development in hazard area	N/A			N/A
Cl. 6.31	Residential development near pipelines	N/A			N/A

The development is inconsistent with the relevant clauses of CBLEP 2023. This forms part of the recommended reasons for refusal of the application.

[1] Building Height

The Applicant has identified that the proposed development seeks a variation to Clause 4.3(2) Height of Buildings in the Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023). Based on the calculations provided by the Applicant, the proposed building comprises a max height of 20.84 (2.84m or 15.7%). **Figure 3** illustrates the portions of the development which will exceed the maximum building height control:

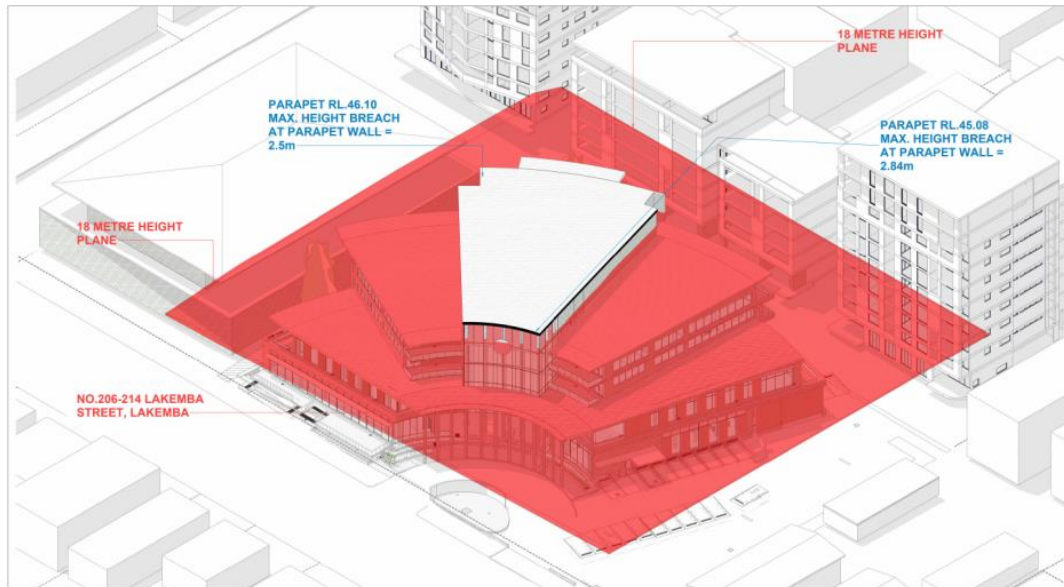


Figure 3: Proposed Height Breach
Source: Katris Architects

However, as noted within the table above, Council is unable to confirm the extent of the height breach based on the information submitted. The most recent set of architectural plans submitted comprise a lift overrun which consists of an RL of 45.92. There is concern that given the slope of the site, the extent of the proposed height breach could be the greatest at this point and hasn't been considered by the Applicant.

Notwithstanding the above, the Applicant submitted a Clause 4.6 variation statement for the proposed height breach based on their calculations. For the purposes of providing a comprehensive assessment of the application, Council has considered the Clause 4.6 statement below.

Clause 4.6(3) of CBLEP 2023 states the following:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Consideration of the above is provided below.

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

The Applicant provided the following justification:

This Request addresses the first method outlined in Wehbe v Pittwater Council [2007] NSWLEC 827. This method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

The objectives of the standard are achieved notwithstanding non-compliance with the standard (the first method in Wehbe v Pittwater Council [2007] NSWLEC 827 [42]-[43]).

The specific objectives of the height of buildings development standard as specified in clause 4.3 of CBLEP are detailed in the Table below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

Objective	Assessment
<i>(a) to establish the height of development consistent with the character, amenity and landform of the area in which the development will be located</i>	<p><i>The Lakemba Town Centre provides a variety of housing types, commercial space, public transport connections and employment opportunities. The subject site benefits from convenient access to Canterbury Station and is located approximately 350m from the station entrance. Lakemba Station is currently undergoing upgrades in preparation for the Sydney Metro project, which will deliver fast and frequent train services between Bankstown and the CBD and north-western Sydney making Canterbury and the subject site more liveable, vibrant and connected.</i></p> <p><i>Specifically, the proposal has been designed in response to the natural landform, characteristics of the land and relationship with neighbouring development both current and evolving and seeks to introduce a development scale that despite the numerical height breach, will identify as visually commensurate with the business development zoning and more generally, the Lakemba Town Centre Precinct. The siting and nature of the breaching elements including their scale and aspect, enable the proposed building to visually integrate with that of setting both current and future serving as an affirmation of the objective and not that of a building that abandons height controls.</i></p> <p><i>As of April 2024, Lakemba has been identified as a new station that will be subject to the Chapter 5 SEPP Tod provisions. In doing so, this classification will no doubt foster an increased level of development across the precinct, specifically, within 400m of the station which will encompass the subject site.</i></p>

	<p><i>Development forms subject to the SEPP will range from 22m to 24m subject to the height controls, albeit, will also be subject to a suite of additional controls.</i></p> <p><i>The height breach proposed in this case, while not numerically significant, will facilitate for a more desirable built form outcome that will present as more conducive to what is no doubt a setting in transition to more significant building scales, heights and forms.</i></p> <p><i>Overall, the proposed development remains entirely consistent and compatible with the existing and desired future character of the area despite the height non-compliance. The proposal continues to provide for a development which will both activate the streetscape/s and provide for high quality and high amenity community uses spaces</i></p>
<i>(b) to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of 2 storeys in Zone R2</i>	<i>This objective does not apply to this development</i>
<i>(c) to provide appropriate height transitions between development, particularly at zone boundaries,</i>	<p><i>Katris Architects as part of their architectural plan detail set have included a contextual analysis that defines the maximum anticipated built form heights across the site interfaces. (Drawing Number A005).</i></p> <p><i>This analysis demonstrates the diverse range variation in maximum building heights across the sites immediate context. In terms of height transition, the most notable change is observed between the subject site and that of the development to the north across Lakemba Street where a maximum height of 8.5m is afforded to these developments. To the west, the existing low rise RFB development is prescribed a maximum height of 11.5m.</i></p> <p><i>This design has strongly considered this height transition and in doing so, has sited all building breaches well away from these interfaces. The most non-compliant component of the building which in this case, is located within the north-western corner where a height breach of 2.84m is observed, is sited 22.6m from the street edge along Lakemba Street. In relation to the western boundary interface, the building breach is sited 52.6m away from the western</i></p>

	<p>boundary interface. In this regard, the extent of separation provided between the height breach and zoning interfaces will not present as an incongruous outcome across the street setting.</p> <p>The proposal continues to respond to this objective despite the departure from the height standard</p>
(d) to minimise overshadowing to existing buildings and open space	<p>Given the siting of the breaching elements and the ensuing spatial relationship between the building, more specifically the breaches with that of neighbouring properties, no adverse increase in the level of overshadowing is deemed to arise. The shadowing analysis prepared by Katris Architects accompanying the architectural plan detail set appropriately demonstrates this.</p>
(e) to minimise the visual impact of development on heritage items and heritage conservation areas,	<p>The proposed building is well separated from any items of heritage, the most proximate of which is located to the south-west of the site (Lakemba Rail Station), and therefore, the breach will have no bearing on views to, from and or across this item.</p>
(f) to support building design that contributes positively to the streetscape and visual amenity of an area	<p>The breach will not result in a jarring outcome to the streetscape and or visual amenity of the area. The recessed nature of the breaching elements alongside their scale and form, will in no way hinder the proposal's ability in continuing to reinforce the positive attributes of the streetscape nor will the breach result in the visual amenity of the area being adversely disrupted.</p> <p>Expanding on the above, the visual impact of the non-compliant height elements is not significant because: -</p> <ul style="list-style-type: none"> • The development as it will be interpreted along Lakemba Street, presents with a defined building base alongside recessed and concaved facade form and features that are suitably integrated into the overall design of the building. • The breaching component of the building presents with a narrow edge to Lakemba Street when compared to the width of the street frontage. This upper-level building component where the breach is identified, fans out to the rear of the site and has therefore, been tucked away into the site mitigating any

	<p><i>publicly perceivable form from along Lakemba Street.</i></p> <ul style="list-style-type: none"> <i>• In terms of materiality, the breaching component as it will be perceived from Lakemba Street will comprise of curtain wall glazing. In this regard, it will not present as heavy set nor as an adverse contribution to building bulk or volume.</i> <p><i>In summary, the height breach tapers away from the building edges and or presents with a high degree of built form articulation and modulation that disperses any ensuing visual volume. These outcomes in combination with the proposed materiality, will ensure that the building, more specifically the height breach, does not present as a perceptible contribution to the volume of the development on which the amenity or streetscape character would be adversely compromised</i></p>
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Council Comment

Council does not agree with the justification provided. The majority of the justification relates to how the proposed breach will not result in visual impacts given the context of the site and its immediate surroundings.

The Transport Orientated Development (TOD) amendment within the Housing SEPP currently does not apply to the site. It is expected that the new planning controls will apply to Lakemba Station from December 2024. Notwithstanding this, a key aim of the TOD amendment is to increase housing density near planned and existing public transport. The proposal does not comprise any form of residential housing and therefore the controls (including additional height standards) will not be applicable to the proposal and subsequently cannot be used as justification.

Lastly, the justification notes that the proposal will not result in any further adverse overshadowing impacts on adjoining properties. As detailed later within this report (against the relevant solar access controls contained within the Canterbury Bankstown Development Control Plan 2023), the proposed solar access diagrams submitted are inconsistent and therefore cannot be relied upon. Therefore, based on the information submitted, Council is not satisfied that the proposal will not result in any further adverse overshadowing impacts on adjoining residential properties.

In light of the above, the proposal does not satisfy the objectives of Clause 4.3 of CBLEP 2023 and the justification provided for the proposed height breach is not supported.

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

The Applicant provided the following justification:

There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above. These include:

- The proposed development for built form that is permissible and is consistent with the objectives of the Height of Building control contained in CBLEP 2023;*
- The topography is a unique constraint which affects the site and results in a design that exceeds the numerical height limit. The 1.8m site slope from east to west has had a direct bearing on the extent of breach observed across the building;*
- The subject site is flood affected. According to council's requirements, the basement protection level (crest level) shall be set minimum at the FPL 24.85m AHD. This has had a direct bearing with respect to the extent of height breach observed across the development.*
- The reception lounge that exceeds the height is nominated as a community accessible space. Therefore, the breach will facilitate the provision of community use benefits that could not be offered to the degree sought, without the height departure.*
- The proposal will not result in the generation of an unreasonable extent of amenity impact beyond that of a compliant scheme; and*
- All other requirements relating to height and land use are consistent noting the transitional form of the evolving context. As of April 2024, Lakemba was classified as part of the TOD reforms and therefore, new planning controls relevant to this and neighbouring sites within 400m from the station will be subject to a suite of new controls, specifically, increased heights and FSR's where an application has been made subject to the Chapter 5 provisions of the SEPP (Housing).*

Council Comment

Council does not support the justification provided for the following reasons:

- The provisions outlined within the TOD amendment are not in-force for the site at this time and will not apply to the proposed use. Therefore, it should not be relied upon to justify the proposed height breach for this proposal.
- The proposed reception lounge which forms the proposed height breach can be incorporated within the design and comply with the maximum building height development standard pursuant to the height of building definition contained within CBLEP 2023. The definition does not provide concessions for community spaces to breach such controls.
- Although the site is flood affected, the additional height required above the existing natural ground level, as outlined within Council's Stormwater Systems Report (SSR) is negligible and doesn't reflect the extent of the height breach proposed. The SSR requires habitable floor to be 25m AHD. It is noted that the flood impact assessment report prepared by the Applicant notes that the habitable floor level is to be 25.2 AHD. However, Council's Assets Planner has requested that the report provide evidence that the flood modelling undertaken has been validated against Council's flood levels provided in the SSR. Notwithstanding this, the proposal comprises a habitable ground floor level of 25.35m (which is greater than both suggested levels). Where the proposed

building is located within the site, the majority of the land is at the required height or close to. Based on the sections provided by the Applicant, the lowest existing natural ground level at the building location is 24.21m. Therefore, the additional 2.84m height sought as part of the variation is not justifiable from an environmental constraint perspective.

- Based on the solar access information submitted, Council is not satisfied that the proposal (specifically the proposed height breach) does not result in further adverse overshadowing impacts on adjoining residential properties. The solar access and overshadowing plans submitted are inconsistent and therefore cannot be relied upon for assessment. Furthermore, the plans do not indicate the additional shadow cast by the proposed height breach (despite being asked by Council to provide), and therefore the overshadowing impact associated with the proposed height breach is unknown.
- The proposal is deficient in parking to cater for the proposed use and therefore the additional height sought (which incorporates additional gross floor area) does result in adverse environmental impacts from a parking and traffic perspective.

In light of the above, the Clause 4.6 variation statement submitted is not well founded and is not supported. This forms part of the recommended reason for refusal.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no applicable draft environmental planning instruments.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Canterbury Bankstown Development Control Plan 2023

The development application has been assessed against the relevant provisions contained in Canterbury Bankstown Development Control Plan 2023 (CBDCP 2023), as follows:

Chapter 2.2 – Flood Risk Management

The subject site is flood affected and therefore the controls outlined within Section 9 – Flood Risk Management in the former Canterbury LGA and Section 10 – Flood Risk Management apply to the proposal.

Council's Asset Planner and Development Engineer undertook an assessment of the proposal against the relevant provisions contained within Section 9 and Section 10 of Chapter 2.2.

Council's Asset Planner raised the following concerns regarding Flood Risk Management:

- **Flooding – Model Validation** – *The Flood Impact Assessment Report will need to include evidence that the flood modelling undertaken has been validated against Council’s flood levels provided in the SSR.*
- **Flooding – Flood Gate** - *As the basement ramp threshold level is 0.15m below the Flood Planning Level (i.e. 25.05mAHD vs 25.2mAHD), AP Stormwater preference is to either have a 0.15m crest introduced at the entry or extending the ramp, as well as installation of a flood gate to reach the Probable Maximum Flood (PMF) height to provide PMF immunity for the basement and lifts considering the potential use of the facility as a shelter-in-place.*
- **Flooding – Fencing** - *It is noted from the architectural plans that solid colorbond fence is proposed along the site boundary which will impact on overland flows. Any fencing crossing easement or overland flow paths should be open type so as not to impede flows in accordance with Canterbury-Bankstown DCP 2023–Chapter 2.2 (Section 5: Fencing).*
- **Flooding – Flood Emergency Response Plan** – *A site-specific Flood Emergency Response Plan will need to be developed considering the flood behaviour up to the Probable Maximum Flood (PMF).*
- **Flooding – Developed Scenario** – *Has the modelling of the Developed Scenario incorporated the proposed RLs in the landscaped areas? Has the proposed baffle structure reported in Section 5.2 of the Flood Impact Assessment Report been captured in the landscape design?*
- **Flooding – Substation** – *To ensure power supply remains online for the proposed development during a major flood event, the proposed substation must be located above the Flood Planning Level.*
- **Flooding – Structural Soundness** – *A suitably qualified engineer’s report is required to demonstrate that the proposed development can withstand the forces of floodwater, debris, and buoyancy up to the Probable Maximum Flood (PMF) to satisfy the shelter-in-place requirement.*

In light of the above comments, insufficient information has been provided to allow Council Officers to undertake a detailed assessment of the proposal against the relevant controls contained within Chapter 2.2 of CBLEP 2023.

Chapter 2.3 – Tree Management

The proposed development seeks approval for the removal of fifteen (15) trees on site and two (2) on neighbouring allotment. The proposed development was referred to Council’s Tree Management Officer for assessment and was found to be supportable subject to conditions. As such, the proposal is considered suitable with respect to the requirements of the SEPP. However, in the event the Application could be supported, the proposed removal of trees 8 and 9 on the neighbouring property (194-198 Lakemba Street) could not be granted as they are outside of the subject site’s boundary to which this application applies.

Chapter 3.1 – Development Engineering Standards

In regards to the civil engineering requirements outlined within Section 2 of Chapter 3.1, Council's Traffic Engineer has reviewed the vehicular crossing design and internal driveway/sight line requirements. Further information is required to determine whether the proposal satisfies the controls contained within this Section. Council's Traffic Engineer provides the following comments:

At the access driveways on Lakemba Street, swept paths for MRV needs to be shown as the largest service vehicle will be accessing these driveways. The width of the driveway may need to be amended to accommodate the swept paths.

For the laneway access driveway, from the irregularities in the outline of the MRV swept paths, "Turn from Stop" was utilised in Autocad, which is unrealistic driver behaviour. The swept paths are to be revised. All swept paths are to have this setting turned off.

Turning paths are to be amended and returned to Traffic Unit.

In regards to the Stormwater Drainage System controls contained within Section 3 of Chapter 3.2, the application was referred to Council's Assets Planner and Development Engineer for comment. The following comments were provided:

Development Engineer:

In relation to the design of the OSD, a structural design certification is required to qualify whether a 300mm slab thickness could support the pillars at this location or not.

Assets Planner:

- **Stormwater – Pit Clearance** – *The driveways no longer clash with the existing pit lintels on Lakemba Street. However, the top cover/lid of the existing stormwater pit located on the western driveway will need to be modified to accommodate the traffic load and grading change. Please provide details of the modification of this pit.*
- **Stormwater – Survey** - *Council records indicate that an existing 1.35m diameter drainage pipe and a 2.53m x 1.26m box culvert traverse the development site. The applicant shall carry out survey via non-destructive method to confirm the exact physical location of Council's stormwater assets including the pipe/culvert size and invert level as part of this assessment. This survey is necessary to establish the clearance of the proposed stormwater pipes and also the electrical conduit crossing from the substation to the basement.*
- **Stormwater – Easement** - *A drainage easement in favour of Council shall be created over Council's pipe and culvert traversing the site for the purpose of constructing and maintaining stormwater drainage structures. The easement must be centrally located over the drainage pipe and culvert, and the width must be in accordance with Canterbury-Bankstown DCP 2023–Chapter 3.1 (Table 3a: Minimum easement widths).*
- **Stormwater – Easement** - *All trees will need to be relocated outside of the Council's drainage easement as large trees can crack and break pipes. A Tree*

Protection Zone (TPZ) with a 1 m buffer or a minimum distance of 3m from the edge of the easement should be considered for tree planting.

- **Stormwater – Easement** – The applicant shall provide further details on the removable concrete panels used on the easements including the car park, driveway ramp, footpath and landscape areas.
- **Stormwater – Pre and Post-Construction CCTV Report** - To ensure Council's stormwater infrastructures are adequately protected, a pre and post construction CCTV report on the existing stormwater pipeline, culvert and pits in the vicinity of the proposed development shall be submitted to Council.

In light of the above, insufficient information has been submitted to determine whether the proposed civil engineering design and stormwater drainage system complies with the relevant controls contained within Chapter 3.1 of CBDP 2023.

Chapter 3.2 – Parking

In accordance with Chapter 3.2, a parking study prepared by a suitably qualified traffic consultant is to be prepared and submitted for the proposal.

A Traffic Impact Assessment and subsequent addendums to the report have been prepared by TTPP Transport Planning. Council's Traffic Engineer has reviewed it and provides the following comments:

1. Traffic Generation

There is inconsistency in the total GFA of the office component. The Architectural Drawings shows a total of 658sqm as per below screenshot.

<u>LEVEL 2:</u>	
GREEK ORTHODOX COMMUNITY USE ONLY:	
•	<u>TOTAL OFFICE SPACES = 36 + 8 + 20 + 18 + 15 = 97 m²</u>
•	<u>MEETING ROOM = 63 + 169 + 61 + 91 + 52 + 52 = 488m²</u>
•	<u>BOARD ROOM = 45m²</u>
•	<u>PRESIDENT ROOM = 28 m²</u>
<u>LEVEL 3:</u>	
•	RESTAURANT (LETTABLE AREA) = 412 m ²
•	KITCHEN = 52m ²
•	TOTAL OFFICE AREAS (LETTABLE AREA) = 285 m ²
•	TOTAL MEETING ROOM AREAS (LETTABLE AREA) = 110m ²
<u>TOTAL LETTABLE AREA ON LEVEL 3 = 859 m²</u>	

Table 4.2 of the Traffic Impact assessment shows Office GFA to be 382sqm as below

Office	382 m ²	1.2	-	-	5	0	0
--------	--------------------	-----	---	---	---	---	---

Section 3.1 of the TIA refers to office GFA as 577sqm, as below

The proposed cultural centre consists of the following trip generating land uses:

- a 350 person Theatre
- a 250 person (462m²) Reception lounge
- three function rooms, with a total capacity of 200 persons (711m²)
- 231m² of Bar and gaming room
- 404m² of Restaurants
- 317m² of Retail
- 577m² of administration/ office space.

These inconsistencies are to be addressed and reconsidered within the Traffic Impact Assessment, for Council's consideration.

2. Car Parking Assessment

The Applicant has revealed that motorists other than patrons of the existing centre are utilizing off-street parking on the subject site, Traffic Unit is concerned about the 49 shortfall of off-street parking in the subject proposal.

This gives the Applicant even more reason to provide the required off-street parking without relying on on-street parking and without any shortages.

Traffic Unit receives several concerns of blocked driveway and request for parking restrictions where an RSL is located in close proximity to residential. The shortfall could lead to such issues. And such issues must be addressed at this stage.

The Applicant is to confirm whether motorists other than patrons of the centre will still be able to access off-street parking once the site is redeveloped.

The Parking Survey shows that on-street parking is already at capacity according to Austroads guidelines (above 85% occupancy). A shortfall of 49 spaces is excessive and is therefore not supported.

The Applicant to provide survey of similar land use or RSL located close to a train station, where patrons use the train to commute to the centre. If this can be justified, Traffic Unit will consider the 49 shortfall spaces.

In addition to the above, the Applicant was requested to provide an updated Plan of Management to clearly detail how each use will operate within the site (privately or in connection to the registered club/community facility) and it was requested that this was to correlate with any supporting documents (e.g. the traffic report). This was not provided by the Applicant and therefore there is insufficient information to determine whether how the site is intended to be used will reflect the recommendations of the supporting documents, including the traffic report.

Furthermore, it is noted that the architectural plans indicate that a 1.8m high colorbond fence is proposed to be constructed along the southern boundary of the site, adjoining the car park. There is concern that this design element has not been

considered in the traffic and parking study undertaken (as there is no mention of it) and could therefore result in further impacts that haven't been considered.

In light of the above, the proposal does not comply with the minimum parking requirements contained within Chapter 3.2 of CBDP 2023.

Chapter 3.3 – Waste Management

The Application was referred to Council's Resource Recovery Officer who raised no objection, subject to condition of consent should the application be supported.

Chapter 3.6 – Signs

This Chapter of CBDP 2023 applies to the proposal given business identification signage is proposed.

Despite Drawing D042 showing multiple signs to be installed at the property, the response letter prepared by Katris Architects dated 19 July 2024 notes that only one sign is proposed to be installed on the building. Page 3 notes that *"all other signs that are not exempt from obtaining approval from Council or otherwise. Such as shop/retail outlets will be subject to further submissions to be provided to Council at a later date by a prospective tenant"*. Therefore, it recommended that as part of any future DAs, the architectural plans are amended to solely show the signs that approval are sought for, to avoid confusion.

Notwithstanding the above, the proposed sign to be installed on the building is to be assessed against the relevant controls contained within this Chapter of CBDP 2023. Drawing D042 does not comprise any dimensions of the proposed sign. The dimensions cannot rely on the proposed streetscape elevation provided as the elevation is splayed and therefore may not be accurate. The Applicant was requested to provide dimensions of the proposed signage through-out the assessment process, however, did not provide it within the information submitted.

On this basis, insufficient information has been submitted to facilitate Council's assessment against the relevant controls contained within Chapter 3.6 of CBDP 2023.

Chapter 3.7 – Landscape

The Application was referred to Council's Landscape Architect for review against the relevant controls contained within Chapter 3.7 of CBDP 2023. No objection was raised, subject to conditions of consent should the application be supported.

Notwithstanding the above, Council's assessment of the application noted that the proposed landscape plan is inconsistent with the proposed architectural plans, particularly in relation to the incorporation of an acoustic wall along the southern boundary. The acoustic wall shown in the architectural plans could impact on the landscaping proposed. Therefore, despite Council's Landscape Architect raising no objection, Council considers insufficient information has been submitted at this stage and any future DA should ensure the plans are consistent to ensure the proposed outcome is achievable.

Chapter 7.1 – Commercial Centres (General)

An assessment of the proposal against the relevant controls contained within Chapter 7.1 is provided in **Table 5** below:

Table 5

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023 CHAPTER 7 COMMERCIAL CENTRES 7.1 GENERAL REQUIREMENTS

			Compliance		
			Y	N	N/A
Business Zones					
B1 Neighbourhood Centre		Site zoned B2 Local Centre and is located within the Lakemba Local Centre, identified in the <i>Connective City 2036 Plan</i> .	Y		
B2 Local Centre					
B4 Mixed Use					
B5 Business Development					
B6 Enterprise Corridor					
B7 Business Park					
SECTION 2 – ACTIVE STREET FRONTAGES					
2.1 Building design (active street frontages)	The ground floor design must incorporate active street frontages particularly where addressing main streets, public open space and pedestrian links.	It is to be noted that the assessment of <i>Section 2 – Active Street Frontages</i> has been primarily limited to the Shops 1-4 of the Ground Floor, as they represent the portion of the development which would most appropriately require active street frontages, and compliance with the following controls. Whilst efforts have been made to incorporate an active street frontage, areas of non-compliance or deficient information to confirm compliance are prevalent, particularly with reference to glazing/visibility into shopfronts, floor levels, and details of building utilities and services.		N	
2.2 Building design (active street frontages)	The design of active street frontages must include: (a) a minimum 80% glazing (including doors); (b) well-detailed shopfronts with pedestrian entries at least every 10–15	a) The ground floor Shops 1-4 which directly front Lakemba Street with a setback to the front boundary of 5.0m comprises of 94.3% glazing (24.8m of vertical portioned windows and glass doors along the 26.3m length wall.). Whilst this complies, the submitted		N	

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			Compliance		
			Y	N	N/A
	<p>metres;</p> <p>(c) zero setback to the front building line (however this may incorporate indented entries or bays where consistent with the existing street character);</p> <p>(d) high quality external materials;</p> <p>(e) openable facades encouraging natural ventilation where possible;</p> <p>(f) outdoor dining where possible.</p>	<p>Signage location plan (Drawing D042, issue D dated 15/07/2024) indicates that vinyl window signage is proposed along the shopfronts “subject to shop tenant/owner agreement”. No further detail has been provided outside of an example photo, which could potentially lead to non-compliance with this control. True compliance with this control cannot be determined without further information on the exact signage proposed.</p> <p>b) Distance between the pedestrian entries of Shops 1 and 2 of 1.5m, Shops 2 and 3 of 4.5m and Shops 3 and 4 of 6.0m Complies.</p> <p>c) With regards to the existing locality – being primarily residential with a commercial/mixed use building to the East – having zero setback to the front building line would not be consistent with the existing street character. The 5.0m setback that has been proposed is in keeping with the existing street character.</p> <p>d) Consideration of the quality of the external materials was undertaken by the Canterbury Bankstown Design Review Panel. The concerns raised of lack of quality, intensive maintenance required for the types of materials proposed, lack of variety and adequate detail are</p>			

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			Compliance		
			Y	N	N/A
		<p>maintained.</p> <p>e) Shops 1-4 have been indicated within the statement of environmental effects and plan of management for commercial/retail use excluding food and drink premises' – a use where openable facades would be more appropriate. The lack of openable facades would therefore be considered acceptable, however since both of these documents were submitted, an outdoor seating area has been proposed in front of shops 3 and 4, and the outdoor café removed. This raises concerns as to whether food and drink premises would be proposed in these spaces, and whether openable facades are more appropriate. A lack of up to date information results in uncertainty with this control.</p> <p>f) Outdoor seating spaces have been proposed to the front of Shops 3 and 4.</p>			
2.3 Building design (active street frontages)	The design of active street frontages must not incorporate security roller doors and window bars.	The proposed design has not indicated the incorporation of security roller doors or window bars.	Y		
2.4 Building design (active street frontages)	Ground floor business and office uses must utilise internal fitouts for privacy. The use of frosted screens or opaque glass for privacy is discouraged.	Whilst the potential exists for internal fitouts which promote privacy of Shops 1-4, Insufficient information has been provided on the type of glazing (clear, opaque etc.) proposed for the paneled windows and		N	

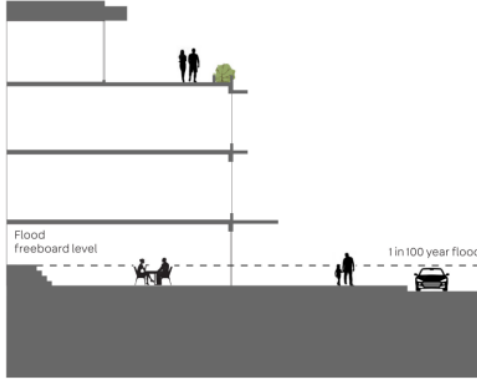
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			Compliance		
			Y	N	N/A
		<p>glass doors of the development to confirm compliance with this control.</p> <p>Drawing D042, issue D dated 15/07/2024 indicates that vinyl window signage is proposed along the shopfronts "subject to shop tenant/owner agreement". The use of full sized vinyl window stickers as suggested by the example image would produce the same type of effect which is discouraged by this control.</p> <p>Furthermore, the proposed location of pillars within the shop frontages raises concerns regarding visibility into and out of the premises as well as utilisation of the spaces.</p>			
2.5 Building design (active street frontages)	The ground floor entries to retail, commercial, community and residential uses are to have the same finished floor level as the adjacent footpath and are to be accessible directly from the street. Ground floor entries which have a finished floor level above or below the adjacent footpath are discouraged.	Exception to control 2.5, see control 2.6.	Y		
2.6 Building design (active street frontages)	Where the finished floor level is raised due to flood impacts, the active street frontage must incorporate universal access between the street and ground floor uses, or accommodate level changes within the building.	The 'Flood Impact Assessment' dated 22 July 2024 and prepared by Telford Consulting indicates in Section 6 that the minimum habitable floor level for the site (considering the 1 in 100 year ARI plus 0.5m freeboard) is to be at RL		N	

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			Compliance		
			Y	N	N/A
		<p>25.20. The FFL that has been proposed for the entirety of the ground floor of the development is 25.35.</p> <p>As a result of the required FFL, footpath adjacent levels or step free entryways accessible directly from the street are not possible. The footpath levels within the vicinity vary from RLs of 24.36 to 24.10, which represents an approximate 1.12m difference between the footpath and the FFL of the shops.</p> <p>Within the 5m setback from Shops 1-4 to the front boundary and footpath, the approximately 26m expanse features one set of stairs with handrails (3m wide), as well as an accessibility ramp to reach the FFL of 25.35 of the landing outside the Shops.</p> <p>Despite the above, the development proposes a FFL which is higher than required, meaning scope for less height in this area, and potentially throughout the building. It is therefore considered that potential exists for a FFL which is still raised (as is permitted by this control) but lower than what is proposed.</p>			

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			Compliance		
			Y	N	N/A
	<p>Figure 2a: Accommodate level changes within the building</p> 				
2.7 Building design (car parking)	Vehicle access to off-street parking and loading bays is to be from a secondary street or rear lane.	The assessment of off-street parking structures and access to them has been assessed by Council's Traffic Engineers. This has still been deemed as insupportable as access to the laneway has only been limited to service vehicles. Questions are also raised for the future rear lane access by the proposed "1.8m solid construction fence".		N	
2.8 Building design (car parking)	Where sites adjoin a rear lane, Council may allow above ground car parking at the rear of the site provided that: (a) the car park occupies only the rear of the first storey (i.e. the ground floor) and second storey; and (b) the car park must be setback a minimum 18 metres from the front building line to allow the gross floor area at the front of the building to be used for retail,	Above ground parking has not been proposed for this development, at-grade and basement parking has been proposed.			NA

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			Compliance		
			Y	N	N/A
	commercial, community and residential; and (c) the building design must promote natural surveillance on the lane.				
2.9 Building design (car parking)	For sites that do not adjoin a secondary street or rear lane, off-street parking and loading bays are to locate in the basement level or sleeved at ground level. Vehicle access is to be no more than a single driveway from the primary street and must ensure that: (a) the vehicle footpath crossing is as narrow as possible; (b) car park entries, driveways and loading docks are not located at the corners of street intersections.	This control is not applicable as the property will adjoin a proposed rear lane, however it is still noted that the assessment of off-street parking structures (including at grade and basement parking) and access to them has been assessed by Council's traffic engineers. They object to the current proposal.			NA
2.10 Building design (pedestrian entrances)	Entrances must locate on the primary street.	The entrances to Shops 1-4 area located on the primary street, Lakemba Street.	Y		
2.11 Building design (pedestrian entrances)	Residential entrances must be secure and separate from non-residential entrances.	Not applicable - The subject development does not propose any residential units; therefore, no residential entrances are proposed.			NA
2.12 Building design (utilities and building services)	Development must show the location and design of utilities and building services (such as waste storage areas, plant rooms, hydrants, mechanical ventilation stacks, exhaust stacks,	The location and design of building services has been indicated on the plans as per the below: - Substation location has been identified within the landscaped pedestrian		N	

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			Compliance		
			Y	N	N/A
	equipment and the like) on the plans.	<p>access area to the west of the site, however the design of the substation has not been indicated.</p> <ul style="list-style-type: none"> - Garbage storeroom identified on basement level 1. - 3x plant rooms with 2 on basement level 1 and one on basement level 2. - Combined fire hydrant and booster system located at corner of property, adjacent to 194-198 Lakemba Street. Design has not been indicated. - External attack hydrants located throughout premises - Internal hydrant and sprinkler systems identified. - Mechanical Services plan included (Universal Consulting Engineers, dated 15.05.2024), however the contents of the plan creates several concerns regarding its completeness and accuracy. Page 4 shows written 'questions' where it appears that the consultant who prepared the plan was unsure if a void was internal, and therefore did not indicate the potentially required smoke exhaust. Concerns also exists regarding the exhaust risers around the ground floor stairwell behind Shop 3, which does not contain any obvious external connection 			

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			Compliance		
			Y	N	N/A
		point. - Variety of plant indicated on the roof of level 3.			
2.13 Building design (utilities and building services)	Development must locate utilities and building services on the secondary street or rear lane. Where this is not possible, development must integrate utilities and building services with the building design and conceal the utilities and building services from public view.	<p>The main hydrant is located towards the corner of the site directly adjacent to 194-198 Lakemba Street along the primary street frontage, with external attack hydrants located throughout. The design however has not been indicated, there it cannot be determined if this is well integrated and concealed.</p> <p>The substation has been located amongst the landscaping along the pedestrian link area to the west of the site, set back from the public view from the street. These locations are considered acceptable, however the design has not been indicated, nor has any screen planting, trees to distract from the bulk, etc. Further detail is required to determine if this is well integrated/concealed.</p> <p>Plant wall proposed to the roof of level 3 to conceal plant from street, this is indicated on the proposed level 4 plan and all elevations. The wall appears to be proposed at 1m in height, however it is unclear if this height will be sufficient to conceal the plant from public view.</p>		N	
2.14 Building design (substations)	Development must show the location and design of substations on the plans.	The location of the substation has been indicated, however the design has not.		N	

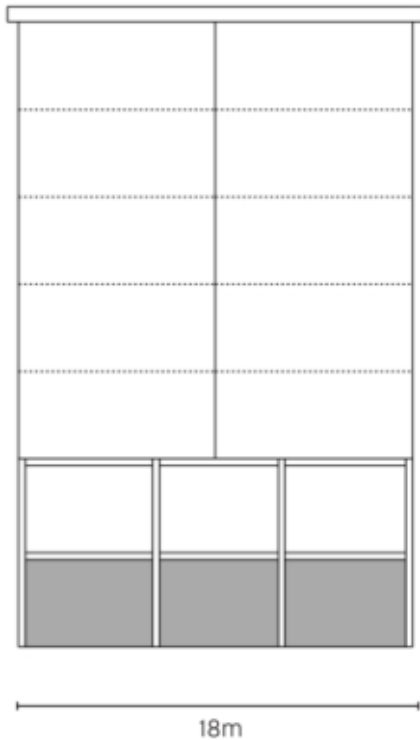
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			Compliance		
			Y	N	N/A
2.15 Building design (substations)	Development must locate substations underground. Where this is not possible, development must integrate substations with the building design and conceal the substations from public view.	The proposed substation has been located above ground due to the requirement to be raised above the 1:100 year flood level. The substation has been located amongst landscaping on the site and it set back from the public view from the street. Information is still required on the design, and potentially more steps (landscaping etc.) required to integrate and conceal.		N	
2.16 Building design (substations)	Substations must not locate forward of the front building line.	The substation has not been located forward of the building line.	Y		
SECTION 3 – FAÇADE DESIGN					
3.1 Development controls	<p>The vertical articulation dimensions are:</p> <p>(a) The facade design of the podium is to reflect the fine grain that is in accordance with, or similar to, that of the local streetscape; or</p> <p>(b) Where there is no prevailing fine grain streetscape, the minimum vertical articulation dimension is 8 metres for the podium. The minimum vertical articulation dimension for tower buildings above the podium is 10 metres, which reflects the average width of an apartment.</p>	<p>a) Not applicable - The existing locality does not have a defined fine grain streetscape. The adjacent 194-198 Lakemba Street presents a screened parking level to Lakemba Street, with the primary entry and building frontage to Croydon Street. This building alone cannot be relied upon to define the fine grain of the streetscape, with the surrounding streetscape primarily residential.</p> <p>b) Not applicable – the proposed development is not for a tower building.</p>	Y		

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Compliance
Y N N/A

Figure 3a: Facade design incorporating fine grain vertically proportioned elements as per clause 3.1(a).



**3.2
Development
controls**

Facade designs may include but are not limited to:

- (a) Articulating building entries.
- (b) Distinguishing between the base, middle and top sections of the facade.
- (c) Expressing the building towers above the podium through a change in facade details, materials and colour.
- (d) Selecting balcony types that respond to the building orientation and proximity to public domain.
- (e) Using architectural

a. Building entry articulated through the inclusion of a stepped in, raised podium level landing and associated colonnade.

b. The fanned out, and stepped in design, with the footprint of the GF and Level 1 following each other, Level 2 and Level 3 stepped in from the sides and level 4 stepped in further, creates a distinction between base, middle and top. However, as raised within later Section of this DCP, the proposal doesn't comply with setback requirements and therefore the distinction could be greater.

c. Not applicable - The

N

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		Compliance		
		Y	N	N/A
	<p>features such as awnings to give a human scale at street level.</p> <p>(f) Recessing elements such as windows or balconies to create visual depth in the facade.</p> <p>(g) Emphasising the difference between solid and void to create a sense of shadow and light.</p> <p>(h) Using any other architectural elements to Council's satisfaction.</p>	<p>proposed development is not for a tower, but a mixed use development.</p> <p>d. Appropriately considered – however additional screening may be required depending on use – a new plan of management would provide more context to allow consideration of how much use the proposed rear balconies would receive as they are facing residential units.</p> <p>e. Awnings not proposed but could potentially be along shops 1-4. The portico of the entrance provides a 'grand' atmosphere to the entrance rather than promoting a human sense of scale due to the civic nature of this type of development.</p> <p>f. Visual depth to the façade has been created by the 'stepping in' of the building every second level and through the inclusion of colonnades.</p> <p>g. The difference between solid and void has been promoted through the centrally located 'wall of glass' which extends from the ground floor to level 5. This is clearly distinguishable from the 'solid' surrounding elements.</p> <p>h. The comments provided by the Canterbury Bankstown Design Review Panel are to be relied upon for this section.</p>		

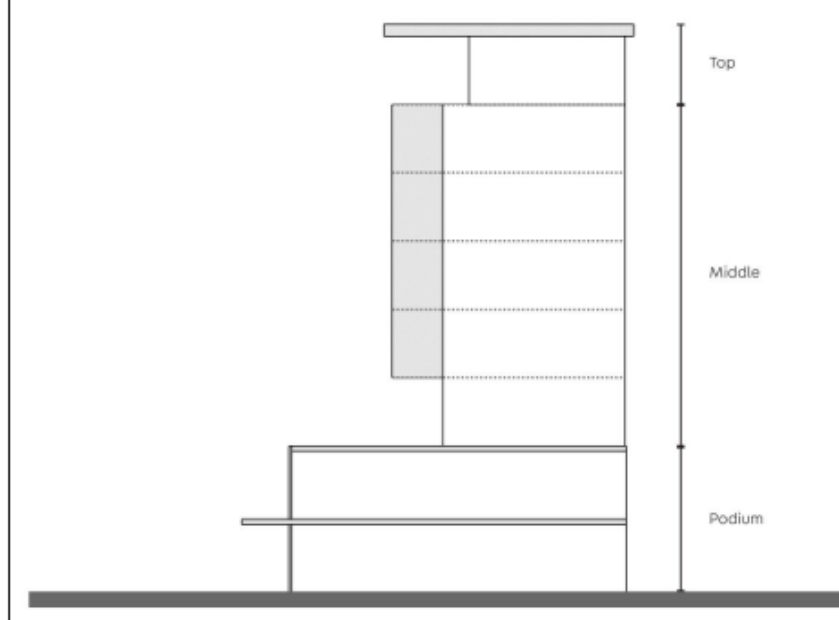
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			Compliance		
			Y	N	N/A
3.3 Development controls	Building designs and window openings should be vertically proportioned in height, form and articulation.	The building design and windows overall are vertically proportioned in height, form and articulation. This is demonstrated throughout the entirety of the façade treatment.	Y		
3.4 Development controls	Facade designs must comprise high quality materials and finishes.	The quality of the materials and finishes has been commented on and deemed insufficient by the Canterbury Bankstown Design Review Panel.		N	
3.5 Development controls	Development must architecturally treat blank walls that can be viewed from the street or other public domain area (such as railway corridors) by incorporating public art, variation in building materials and/ or other architectural design methods to Council's satisfaction.	Areas of blank wall still proposed. The comments of the Canterbury Bankstown Design Review Panel are relied upon for this section.		N	
3.6 Development controls	Building services such as downpipes and balcony drainage must integrate with the facade design.	Downpipes do not appear to be indicated on elevation plans, however integration can be conditioned should the development be approved.	Y		
3.7 Development controls	The design of balcony balustrades on the lower levels may be predominantly solid and/ or opaque to provide privacy to residents and to screen drying areas.	Not applicable - The proposed development does not contain residential elements.			NA

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Compliance
Y N N/A

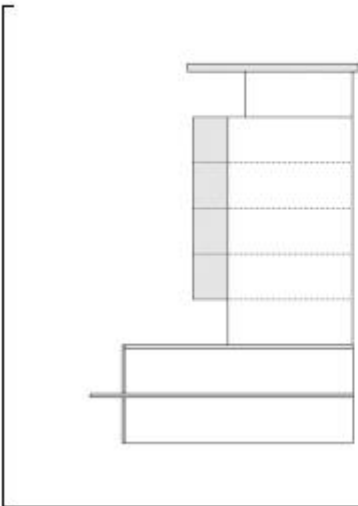

Figure 3b: Podium, middle and top



SECTION 4 – VISUAL BULK

4.1 Development controls	Building designs are to comprise a podium with tower buildings above as shown in Figure 4a. The podium height must be the street wall height.	Not applicable as the proposed development is not for a tower building, but a 5 storey mixed use development. The design does however follow the guide set by figure 4a with each section of middle and top being setback further, with a smaller footprint.			NA
4.2 Development controls	The vertical articulation dimensions are: (a) The facade design of the podium is to reflect the fine grain that is in accordance with, or similar to, that of the local streetscape; or (b) Where there is no prevailing fine grain streetscape, the minimum vertical articulation dimension is 8 metres for the	a) Not applicable - The existing locality does not have a defined fine grain streetscape. The adjacent 194-198 Lakemba Street presents a screened parking level to Lakemba Street, with the primary entry and building frontage to Croydon Street. This building alone cannot be relied upon to define the fine grain of the streetscape, with the surrounding streetscape primarily residential.	Y		

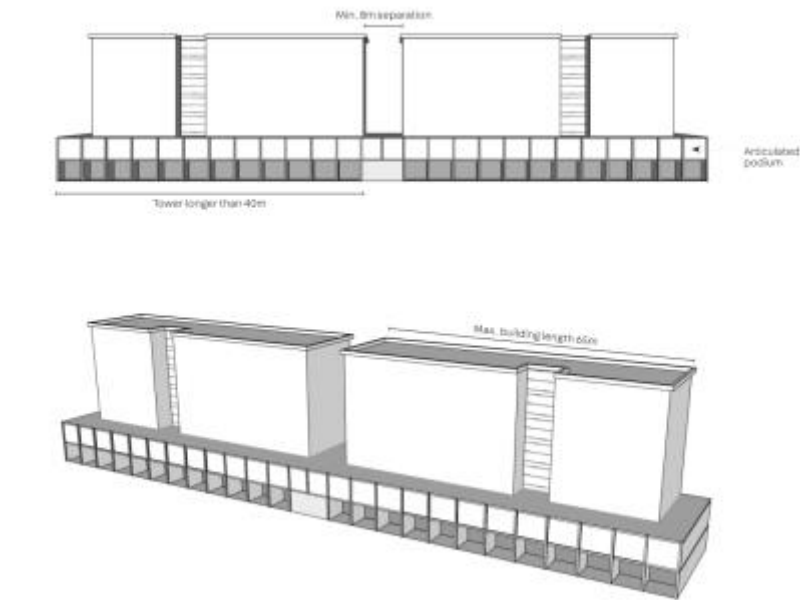
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			Compliance		
			Y	N	N/A
	podium. The minimum vertical articulation dimension for tower buildings above the podium is 10 metres, which reflects the average width of an apartment.	b) The irregular overall shape and design of the building provides for significant articulation throughout, with articulated elements such as columns, decorative window screening, projected roofs over outdoor areas and landscaping provided to a minimum height of 9.8m. This is considering the façade viewable from Lakemba Street. As the development is not for a tower building, the further vertical articulation requirement is considered not applicable.			
4.3 Development controls	Avoid uninterrupted or uniform building facades without articulation, such as blank walls, walls with minimal openings and glass curtain walls.	Areas of blank wall still proposed. The comments of the Canterbury Bankstown Design Review Panel are relied upon for this section.		N	
<p>Figure 4a: Podium with tower building above</p>  <p>Figure 4b: Contemporary example of realising 'grain' in building length by vertical articulation as per clause 4.2(a).</p>  <p>For example, a development with a 40m wide street frontage on a street with predominantly 8m wide sites would be articulated in 5 bays across the street frontage.</p>					
4.4 Sites with a 40–65 metre wide street	In addition to clauses 4.1–4.3, the tower buildings must be separated into at least	Not applicable – Site frontage of 86.88m and the development is not for a tower.			NA

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		Compliance		
		Y	N	N/A
frontage	<p>two distinct building elements as shown in Figure 4c. The minimum separation distance between the two distinct building elements may be in the form of:</p> <p>(a) a 6 metre wide recess along the street frontage which is setback a minimum 4 metres from the building line; or</p> <p>(b) a minimum break of 3 metres that continues to the circulation corridor, unless otherwise required by SEPP 65 building separation controls.</p>			
<p>Figure 4c: Building length controls for 40m–65m wide street frontages</p> <p>Figure 4c illustrates building length controls for 40m–65m wide street frontages. It shows two scenarios: (a) a 6m wide recess with a minimum 4m deep setback, and (b) a 3m wide break with a minimum 3m deep setback. Both scenarios show a building frontage greater than 40m. The diagrams include cross-sections and 3D perspective views. The 3D views show a break in the building facade with a minimum 3m deep setback. The 3D view for scenario (b) also shows vertical articulation and grain for street wall podium required.</p>				
4.5 Sites with a street frontage greater than 65 metres	<p>In addition to clauses 4.1–4.3, the tower buildings must be separated into at least two distinct building elements as shown in Figure 4d:</p> <p>(a) The maximum length of a tower building is</p>	Not applicable – the subject application is for a 5-storey mixed use development.		NA

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			Compliance		
			Y	N	N/A
	<p>65 metres.</p> <p>(b) The tower building must be wholly separated from other towers by a minimum distance of 8 metres or in accordance with SEPP 65 building separation controls. The walls of towers abutting the separation distance should not be blank but given detailed design consideration to create visual interest.</p>				
<p>Figure 4d: Building length controls for greater than 65m wide street frontages</p> 					
SECTION 5 – CORNER BUILDINGS					
5.1 Development controls	<p>Development on corner sites must ensure the building design incorporates one or more of the following elements at the street corner:</p> <p>(a) Architectural roof feature;</p>	<p>Not applicable - The proposed development is not located on a corner block.</p>			NA

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		Compliance		
		Y	N	N/A
	(b) Stepping down or recessing of the built form from the corner; (c) Splayed treatments; (d) Use of materials/colours; (e) Any other architectural elements to Council's satisfaction.			

Figure 5a: Architectural roof feature



Figure 5b: Splayed treatments



Figure 5c: Different setback for the top floor



SECTION 6 – ROOF DESIGN

6.1	Development must incorporate a high quality roof design that: (a) achieves a unique and contemporary architectural appearance; and (b) combines high quality materials and finishes.	a. The proposed roof design with its fanned appearance produces a unique and contemporary architectural appearance. b. The materials and finishes will be commented on by the design review panel. The materials used for the roof – being concrete is not supported by the Canterbury Bankstown Design Review Panel.		N	
6.2	Attics are not permitted.	No attics proposed.	Y		
6.3	Pitched roofs should use	Not applicable - pitched roof			NA

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.1 GENERAL REQUIREMENTS

			Compliance		
			Y	N	N/A
	light coloured metal decking to improve energy performance. Pitched roofs to the street facade are not permitted.	not proposed for this development.			
6.4	Plant and service equipment must be concealed or satisfactorily screened from public view.	<p>The proposed substation has been located further into the site amongst a landscaped area, however the design has not been indicated, and screen planting/trees etc. has not been indicated to promote screening.</p> <p>The proposed plant screening walls on the roof are indicated to reach a height of 1.0m based off the elevation plans, however information has not been submitted regarding the height of the plant it will be screening. Questions are also created about whether this is viewable from the surrounding apartments.</p>		N	
6.5	<p>Where the roof design incorporates a roof terrace:</p> <p>(a) The roof terrace must not function as the principal useable part of the communal open space.</p> <p>(b) The parapet should function as the roof top balustrade. Where there is no parapet, the roof top balustrade should be visually permeable (such as glass or slats) and be setback a minimum 1.5 metres from the roof edge to</p>	Not applicable – Rooftop terrace not proposed.			NA

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7.1 GENERAL REQUIREMENTS

		Compliance		
		Y	N	N/A
	<p>minimise visibility from the street.</p> <p>(c) Shade structures and pergolas should be centrally located to minimise visibility from the street and potential overshadowing.</p> <p>For the purposes of this clause, the principal useable part of the communal open space means a consolidated part of the communal open space that is designed as the primary focus of recreational activity and social interaction.</p>			
6.6	<p>The roof form may exceed the maximum building height provided it complies with clause 5.6 of Canterbury Bankstown LEP 2021 to Council's satisfaction. Otherwise the Height of Buildings Map applies.</p> <p>Architectural roof features must comprise a decorative element and may have a functional purpose if it is fully integrated into the design of the roof features.</p> <p>Planter boxes, balustrades and screen devices do not constitute an architectural roof feature if these elements are independent of the roof and are not integrated into the design of the roof features, but</p>	<p>Not applicable - The overall building design exceeds the maximum height of building for this site of 18m, however the height is not exceeded exclusively due to the roof form or architectural roof features.</p>		NA

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			Compliance		
			Y	N	N/A
	are instead designed for the express purpose of defining and containing an area of communal/private open space above the roof of the proposal.				
SECTION 7 – MATERIALS AND FINISHES					
7.1	Development must incorporate quality, textured and low maintenance materials such as brickwork in the building elevations.	The quality and appropriateness of the materials have been commented on by the Canterbury Bankstown Design Review Panel as lacking in quality, requiring intensive maintenance and not providing sufficient detail.		N	
7.2	Development must avoid large expanses of white render or other finishes which increase the visual bulk of buildings. Where rendered finish is proposed, it must be in combination with at least two other finishes and should not be the predominant finish in the facade.	The proposed expanses of blank rendered wall have been commented on as not satisfactory by the Canterbury Bankstown Design Review Panel.		N	
7.3	Use varied materials and contrasting colours to: (a) highlight feature elements; (b) delineate vertical articulation dimensions; or (c) reduce the impact of other building elements (e.g. reducing the dominance of upper floors or masking unsightly building services).	The choice and appropriateness of the materials have been commented on by the Canterbury Bankstown Design Review Panel as lacking in quality, requiring intensive maintenance and not providing sufficient detail.		N	
7.4	Glazing in combination with quality external	Glazing with aluminium frames and cement render		N	

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
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7.1 GENERAL REQUIREMENTS

			Compliance		
			Y	N	N/A
	materials is appropriate for ground floor retail. Reflective glass to shopfronts is not permitted.	is proposed for the Shops 1-4 retail portion. Information has not been provided in terms of the type of glazing (clear, obscured, reflective etc.) proposed for these windows and glass doors.			
7.5	The security door or grille to a shopfront facing the street must be transparent or an open grille type shutter. Solid roller doors or shutters are not permitted.	Not applicable – none of the listed security measures indicated as proposed.			NA
SECTION 8 – AWNING DESIGN					
8.1	Awnings are required in streets with high pedestrian activity and active street frontages.	Awnings have not been proposed along the active street frontage.		N	
8.2	Continuous awnings are required on the primary street and are to wrap around the building on corner sites to cover at least all active street frontages or a minimum 40% of the secondary street, whichever is the greater.	Awnings have not been proposed along the active street frontage.		N	
8.3	The awning height must be compatible with the street gradient.	Awnings have not been proposed along the active street frontage.			N/A
8.4	The awning design must be compatible with the height, projection and depth of existing traditional box awnings in the street. Where there are no awnings adjacent or nearby: (a) The underside of the awning is to be between 3.2 metres	Awnings have not been proposed along the active street frontage.		N	N/A

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		Compliance		
		Y	N	N/A
	and 4 metres above ground level (existing). (b) The awning may incorporate a contemporary design where it is considered to be an integral feature of the building design.			
8.5	Canvas blinds along the outer edge of awnings are desirable for sun shading to east and west facing frontages.			N/A
8.6	Glass awnings, ineffective awnings or awnings with cut-outs for trees or light poles are not permitted.			N/A
8.7	Lighting must be provided to the underside of an awning using vandal resistant, high mounted light fixtures.			N/A

Figure 8a: Awning height, projection and depth

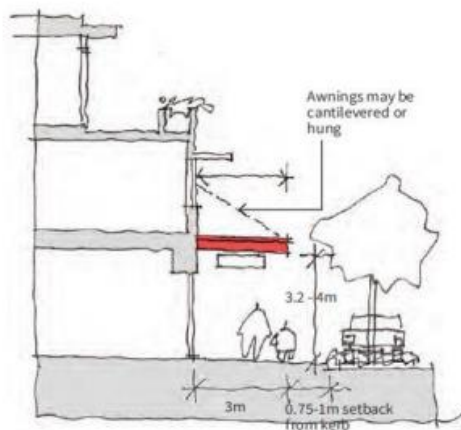
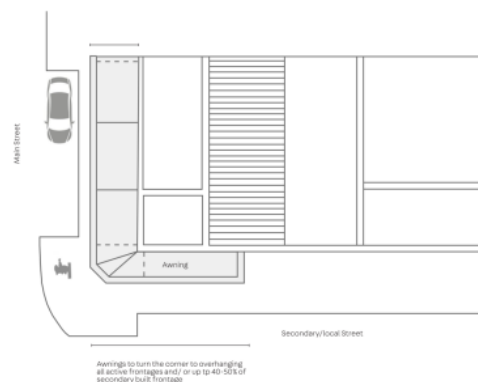


Figure 8b: Awnings on corner sites



SECTION 9 – GENERAL DESIGN AND AMENITY

9.1 Building design	Council applies State Environment Planning Policy No. 65–Design Quality of Residential Apartment Development and the Apartment	Not applicable – the subject application is for a mixed-use development however this does not contain dwellings.		NA
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CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.1 GENERAL REQUIREMENTS

			Compliance		
			Y	N	N/A
	Design Guide to residential flat buildings, shop top housing, serviced apartments, boarding houses and mixed use development (containing dwellings). This includes buildings that are two storeys or less, or contain less than four dwellings.				
9.2	Access to sunlight	The living areas for at least 70% of dwellings in a development must receive a minimum sum of 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement access to sunlight. However, these building elements must not be the primary source of sunlight to living areas.	Not applicable – the subject application is for a mixed-use development that does not contain dwellings.		
9.3	Access to sunlight	The living areas of a dwelling on an adjoining site must receive a minimum sum of 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.	No overshadowing to the residential dwellings of 216-218 Lakemba Street from 12pm onwards, however concern exists regarding “Building B and C” at the site to the rear, 5-7, 7A & 9 Croydon Street, Lakemba. The submitted hour by hour wall crawl and eye of the sun diagrams present inconsistencies which do not allow for an appropriate assessment of the overshadowing impact, which is potentially significant/exceeding the amount of acceptable overshadowing.		
9.4		The private open space	Not applicable – the subject		

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
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7.1 GENERAL REQUIREMENTS

			Compliance		
			Y	N	N/A
Private open space	per dwelling must have a minimum depth of 2 metres and the private open space may be in the form of a balcony.	application is for a mixed use development that does not contain dwellings.			
9.5 Livable housing	Development must comply with the Livable Housing Design Guidelines (Livable Housing Australia) as follows:	Not applicable – the subject application is for a mixed use development that does not contain dwellings.			
	Development types	Development controls			
	Residential flat buildings and shop top housing	A minimum 20% of new dwellings must achieve the Silver Standard; and a minimum 20% of new dwellings must achieve the Gold Standard. However, it is noted that shop top housing will not deliver dwellings at the ground floor as this would be inconsistent with the LEP definition.			NA
	Boarding houses	A minimum 20% of new boarding rooms must achieve the Silver Standard.			
9.6 Livable housing	Despite clause 8.5, Council may vary the Livable Housing Design Guidelines (Design Element 1–Dwelling Access) if it is demonstrated to Council's satisfaction that it is not possible to achieve step-free pathways on difficult and steeply sloping sites.	Not applicable – the subject application is for a mixed use development that does not contain dwellings.			NA
9.7 Services apartments	Development consent must not be granted for the change of use from a dwelling in a residential flat building or shop top housing to a serviced apartment unless Council	Not applicable – the subject application is for a mixed use development that does not contain dwellings.			NA

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7.1 GENERAL REQUIREMENTS

		Compliance		
		Y	N	N/A
	is satisfied that the amenity, safety and security of the residents of the dwellings in the building is maintained.			
9.8 Services apartments	Development consent must not be granted for the change of use from serviced apartments to a residential flat building, with or without strata subdivision, unless Council is satisfied that the development complies with the design principles of State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development and the Apartment Design Guide.			NA
9.9 Landscape	Commercial development, shop top housing and residential flat buildings must provide at least 1 street tree per 5 metres of the length of the primary street. Council may vary this requirement if a street tree already exists in good condition, if an awning or site constraints limit their inclusion, or a public domain plan is yet to determine the location of trees in a centre.			NA
9.10 Landscape	Council may require development adjoining Council land to incorporate public open space. The intended outcome is to expand existing open space wherever possible to enhance the amenity for			NA

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			Compliance		
			Y	N	N/A
	people who work in, live in and visit the centres.				
9.11 Front fences	The maximum fence height for a front fence is 1.8 metres.	Not applicable – no front fence to the site proposed.			NA
9.12 Front fences	The external appearance of a front fence along the street boundary of the site must ensure: (a) the section of the front fence that comprises solid construction (not including solid piers) must not exceed a fence height of 1 metre above natural ground level; and (b) the remaining height of the front fence must comprise open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.	Not applicable – no front fence to the site proposed.			NA
9.13 Front fences	Council does not allow the following types of front fences along the street boundary of the site: (a) chain wire, metal sheeting, brushwood and electric fences; and (b) noise attenuation walls.	Not applicable – no front fence to the site proposed.			NA
9.14 Safety and security	The main entrance or entrances to development must face the street.	The main entrance to the development faces the street on an angle, and is clearly visible from the street.	Y		
9.15 Safety and security	Windows to the living areas of front dwellings, or the windows on the upper floors of	Not applicable – the subject application is for a mixed use development that does not contain dwellings.			NA

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.1 GENERAL REQUIREMENTS

			Compliance		
			Y	N	N/A
	development must overlook the street.				
9.16 Safety and security	Above ground car parking must be setback a minimum 6 metres from the front building line to allow the gross floor area at the front of the building to be used for commercial, retail or residential purposes. This clause does not apply to the front building line that faces a rear lane.	Not applicable – Above ground parking not proposed, only at grade and basement parking.	Y		
9.17 Safety and security	A public arcade or underpass in buildings must be wide and direct to avoid potential hiding places.	Not applicable – Public arcade/underpass not proposed.	Y		
9.18 Safety and security	External lighting to development must give consideration to the impact of glare on the amenity of adjoining residents	Lighting plan not provided to show external lighting for carpark and walkway areas. The only other lighting indicated is shown in the '3D' view of the schedule of colours and finishes. This is however capable of being conditioned should the application be approved.	Y		
9.19 Special requirements for development adjoining a railway corridor and open stormwater drains	Where the site shares a boundary with a railway corridor or an open stormwater drain, any building, solid fence or car park on the site should, wherever practical, be setback a minimum 1.5 metres from that boundary. The setback distance must be: (a) treated with hedging or climbing vines to screen the building, solid fence, or car park when viewed	Not applicable – site does not adjoin a rail corridor or open stormwater drain.			NA

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.1 GENERAL REQUIREMENTS

		Compliance		
		Y	N	N/A
	<p>from the railway corridor or open stormwater drain; and</p> <p>(b) the hedging or climbing vines must be planted prior to the completion of the development using a minimum pot size of 300mm; and</p> <p>(c) the planter bed area must incorporate a commercial grade, sub-surface, automatic, self-timed irrigation system; and</p> <p>(d) the site must be fenced along the boundary using a minimum 2 metre high chain-wire fence; and</p> <p>(e) where a car park adjoins the boundary, hedging or climbing vines must also be planted along the sides of any building or solid fence on the site that face the railway corridor or open stormwater drain.</p> <p>If a setback for landscaping under this clause is impractical, other means to avoid graffiti must be employed that satisfies Council's graffiti minimisation strategy.</p>			
9.20 Amenity	In determining a development application that relates to shop top housing or mixed use development comprising	Not applicable – the subject application is for a mixed use development that does not contain dwellings.		NA

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.1 GENERAL REQUIREMENTS

		Compliance		
		Y	N	N/A
	<p> dwellings, Council must take into consideration the following matters:</p> <p>(a) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised;</p> <p>(b) whether the proposed development will adversely impact on the amenity of dwellings within the same development by way of noise, hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like, and the ability to manage the impacts.</p>			
9.21 Development adjacent to residential zones	<p>In determining a development application that relates to a site adjoining land in Zone R2, R3 or R4, Council must take into consideration the following matters:</p> <p>(a) whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone;</p> <p>(b) whether any goods, plant, equipment and</p>	<p>The subject site adjoins land in zone R4 to the north, south and west.</p> <p>a. The comments of the Canterbury Bankstown Design Review Panel are relied upon for this control, however it is noted that the proposed development is not in keeping with the envisaged character for the site – as per Chapter 11.4 of the CBDCP 2023.</p> <p>b. The proposed substation, hydrants, exhaust and ventilation stacks, and rooftop plant have been</p>	N	

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.1 GENERAL REQUIREMENTS

		Compliance		
		Y	N	N/A
	<p>other material used in carrying out the proposed development will be stored or suitably screened from residential development;</p> <p>(c) whether the proposed development will maintain reasonable solar access to residential development between the hours of 8.00am and 4.00pm at the mid-winter solstice;</p> <p>(d) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised;</p> <p>(e) whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like; and</p> <p>(f) whether any windows or balconies facing residential areas will be treated to avoid overlooking of</p>	<p>indicated, but concerns remain regarding the substation and rooftop plant.</p> <p>c. See control 9.3, additional plans are required.</p> <p>d. The revised Acoustic Report does not reflect the updated proposed design and therefore cannot be relied upon.</p> <p>e. The revised Acoustic Report does not reflect the updated proposed design and therefore cannot be relied upon.</p> <p>f. Adequate separation and scale to avoid overlooking to 216 Lakemba Street, however concerns still exist regarding overlooking to the units at the rear from the Level 2 meeting rooms and balconies, Level 3 meeting rooms and balcony, restaurant and balcony. However, more information would be required within the plan of management to give context to the use to determine compliance, which has not been provided to date.</p>		

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.1 GENERAL REQUIREMENTS

			Compliance		
			Y	N	N/A
	private yard space or windows in residences.				
9.22 Food premises	<p>The design, construction, and operation of a food premises must comply with:</p> <p>(a) Food Act 2003;</p> <p>(b) Food Regulation 2010;</p> <p>(c) FSANZ Food Standards Code; and</p> <p>(d) AS 4674:2004 Design, Construction, and Fitout of Food Premises.</p>	No concerns have been raised by Council's EHOs following receipt of updated information.	Y		

Chapter 7.3 – Commercial Centres - City East – Lakemba

An assessment of the proposal against the relevant controls contained within Chapter 7.3 is provided in **Table 6** below:

Table 6

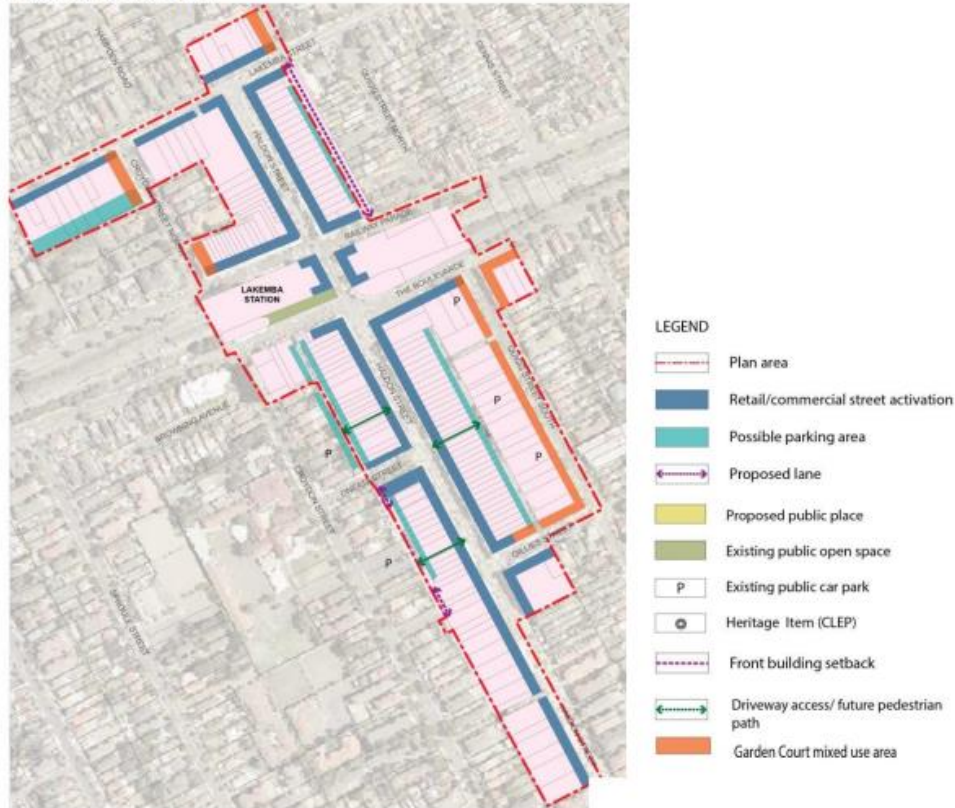
CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.3 CITY EAST (LAKEMBA)

			Compliance		
			Y	N	N/A

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.3 CITY EAST (LAKEMBA)

Compliance
Y N N/A

Figure 8a: Structure plan

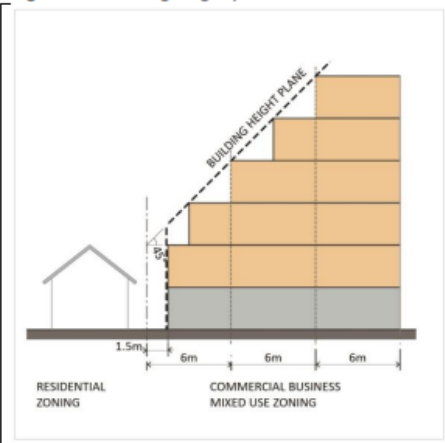
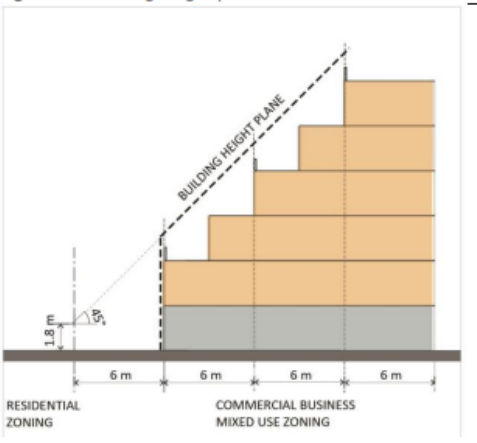


8.1 Structure plan	Development is to be in accordance to the structure plan shown in Figure 8a. The structure plan contains development controls in relation to parking, laneways, pedestrian pathways, retail/commercial activation locations and other matters. Where sites are to be redeveloped and a new lane is identified over private land, the creation of the lane is required even if the lane cannot be immediately utilised.	The site is located within the Lakemba Structure Plan.	Y		
8.2 General	Where a setback applies, buildings are to provide articulated and varied	Setback controls outlined within Chapter 11.4 prevail.			N/A

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.3 CITY EAST (LAKEMBA)

				Compliance		
				Y	N	N/A
	facades that do not result in a ziggurat appearance (i.e. do not have the form of a terraced structure with successive receding storeys).					
8.3 Front setback	Development must comply with the minimum front setbacks as follows:		Setback controls outlined within Chapter 11.4 prevail.			
	Location	Number of storeys at the street and setback	Upper level (podium) setback			
	B2 Zone	1 – 3 storeys Build to front boundary	Fourth storey – 3m Greater than 4 storeys – 5m (all storeys to be set back this distance including the fourth storey)			N/A
8.4 Side setbacks	Except where a proposed development adjoins a residential zone boundary, setbacks are not required in the B2 zone when the desired character is for a continuous street frontage.		Setback controls outlined within Chapter 11.4 prevail.			N/A
8.5 On boundary with residential zone – side setback	Establish a 45 degree height plane projected at 1.5m from the residential boundary.		Setback controls outlined within Chapter 11.4 prevail.			N/A
8.6 On boundary with residential zone – side setback	Provide minimum 1.5m setback to the residential zone boundary.		Setback controls outlined within Chapter 11.4 prevail.			N/A
8.7 On boundary with residential zone – side	A two storey limit on the boundary with residential zone applies (refer to Figure 2b).		Setback controls outlined within Chapter 11.4 prevail.			N/A

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.3 CITY EAST (LAKEMBA)

			Compliance		
			Y	N	N/A
setback					
8.8 On boundary with residential zone – rear setback	Establish a 45 degree height plane projected at 6m from the residential zone boundary.	Setback controls outlined within Chapter 11.4 prevail.			N/A
8.9 On boundary with residential zone – rear setback	Provide minimum 6m setback to the residential zone boundary.	Setback controls outlined within Chapter 11.4 prevail.			N/A
8.10 On boundary with residential zone – rear setback	A two storey limit on the boundary with residential zone applies (refer to Figure 2c).	Setback controls outlined within Chapter 11.4 prevail.			N/A
8.11 On boundary with residential zone – rear setback	A setback to a rear lane is not required.	Setback controls outlined within Chapter 11.4 prevail.			N/A
<p>Figure 8b: Building height plane side</p> 			<p>Figure 8c: Building height plane rear</p> 		
8.12 Exceptions	The following minor building elements may project into the minimum	N/A			N/A

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 7 COMMERCIAL CENTRES
7.3 CITY EAST (LAKEMBA)

			Compliance		
			Y	N	N/A
	side setback area: (a) roof eaves, awnings, pergolas and patios; (b) stair or ramp access to the ground floor; and (c) rainwater tanks.				
8.13 Minimum frontage	Where redevelopment is proposed in a B1 or B2 Zone of the LEP a minimum frontage of at least 18m shall be provided.	The site has a frontage to Lakemba Street of 86.88m.	Y		

Chapter 11.4 – Key Development Sites – Croydon Street Precinct, Lakemba

The subject site is located within the Croydon Street Precinct, Lakemba and therefore the controls outlined within this Chapter apply to the proposal. It is important to note that the Applicant has not provided a planning document that demonstrates that the proposed design has considered the controls outlined within this Chapter, despite being requested to do so throughout the pre-DA and DA assessment processes.

An assessment of the proposal against the relevant controls in Chapter 11.4 is provided in **Table 7** below:

Table 7

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 11 KEY DEVELOPMENT SITES
11.4 CROYDON STREET PRECINCT, LAKEMBA

			Compliance		
			Y	N	N/A
SECTION 3 – BUILDING ENVELOPES					
3.1 Building Envelope	Future developments should be consistent with ADG recommendations for building separation. Note: the achievement of the maximum FSR is dependent on satisfying the other objectives and controls in this DCP	N/A – envisaged for residential development which the proposal does not comprise of.			N/A
3.2 Building Depth	The maximum overall building depth for residential uses is 18m glass line to glass line or 22m balcony edge to balcony edge.	N/A – envisaged for residential development which the proposal does not comprise of.			N/A
3.3 Building	The maximum building length is	N/A – envisaged for			N/A

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 11 KEY DEVELOPMENT SITES
11.4 CROYDON STREET PRECINCT, LAKEMBA

			Compliance		
			Y	N	N/A
length	to be 40m with articulation provided through indentations every 10–15m. The proportions of indentations should comply with ADG objective (4B-2) where width to depth ratio should be a minimum of 2:1.	residential development which the proposal does not comprise of.			
3.4 Building Height	The maximum height allowable under the LEP is intended to accommodate all built form including plant, lift and stair access and rooftop communal open space and structures.	The proposal exceeds the maximum permitted building height.		N	
3.5 Building Height	The floor to ceiling height of retail/commercial floors is to be a minimum of 3.3m with floor-to-floor height of minimum 3.7m.	Each level comprises a floor to floor of min 3.7m with the exception of level 2 – which comprises floor to floor of 3.3m. There is room for the other floors to be reduced to achieve compliance without further variation to height (as well as reduction in height).		N	
3.6 Building Height	The floor to ceiling height of all residential floors is to be a minimum of 2.7m with floor-to-floor height of minimum 3.1m.	N/A – no residential component of the proposal.			N/A
3.7 Building Density	The maximum floor space ratio shall comply with the Canterbury-Bankstown Local Environment Plan 2023.	N/A – No FSR control for the site.			N/A
3.8 Building Density	The maximum floor space ratio may not be achievable if adverse visual, acoustic or privacy amenity or overshadowing impacts occur to adjacent dwellings, the open space or streetscape in the area.	N/A – No FSR control for the site.			N/A
3.9 Street setbacks and street wall heights	The minimum ground level setbacks are to be in accordance with Figure 3b setbacks and upper level setbacks.	Ground Floor Active Uses: It is noted that a zero setback has not been provided by virtue of the ground floor having to be raised. But given upper level setback is 5m,		N	

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 11 KEY DEVELOPMENT SITES
11.4 CROYDON STREET PRECINCT, LAKEMBA

			Compliance		
			Y	N	N/A
		<p>appears in line with next door which is good for streetscape</p> <p>Level 1 setback min 5m.</p> <p>Upper levels are setback min 5m from front boundary.</p> <p>Transition to Residential: <u>Southern boundary:</u> The proposed development is setback from the adjoining approved residential development (to the southern kerb of laneway) by minimum 9.5m which provides a transition to the residential zone.</p> <p><u>Western boundary:</u> The proposed building is setback minimum 19.2m from the western boundary which provides a transition to the residential zone.</p> <p><u>Laneway:</u> Laneway provided on the adjoining property to the south and therefore not required on the subject site.</p> <p><u>Overland Flow Path:</u> The proposal does not consider this control. The building is now setback 17m from overland flow path edge</p> <p>Level above not setback +3m – Level 1 reflects the setback on the ground floor.</p>			

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 11 KEY DEVELOPMENT SITES
11.4 CROYDON STREET PRECINCT, LAKEMBA

			Compliance																			
			Y	N	N/A																	
		Level 2 is setback 6m																				
<p>Figure 3b: Setbacks and upper levels setbacks</p> <table><tr><th>Location</th><th>Ground level setback</th><th>Upper level setback</th></tr><tr><td>B2 Zone</td><td></td><td></td></tr><tr><td>Active uses on the ground level</td><td>Zero setbacks</td><td rowspan="2">3m above the street wall height</td></tr><tr><td>Buildings transitioning to residential uses may reflect the residential character on the ground level and allow for street setback</td><td>Setbacks should transition to adjoining residential zoned land</td></tr><tr><td>New laneway</td><td>3m (street setback to allow for a footpath along one side of the new laneway)</td><td></td></tr><tr><td>Overland flow path for active uses</td><td>6m from the overland flow path edge to the ground floor. See section F10.10 of this DCP</td><td>3m from the overland flow path edge for all floors above ground 3m from the building edge above the street wall height</td></tr></table>						Location	Ground level setback	Upper level setback	B2 Zone			Active uses on the ground level	Zero setbacks	3m above the street wall height	Buildings transitioning to residential uses may reflect the residential character on the ground level and allow for street setback	Setbacks should transition to adjoining residential zoned land	New laneway	3m (street setback to allow for a footpath along one side of the new laneway)		Overland flow path for active uses	6m from the overland flow path edge to the ground floor. See section F10.10 of this DCP	3m from the overland flow path edge for all floors above ground 3m from the building edge above the street wall height
Location	Ground level setback	Upper level setback																				
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Overland flow path for active uses	6m from the overland flow path edge to the ground floor. See section F10.10 of this DCP	3m from the overland flow path edge for all floors above ground 3m from the building edge above the street wall height																				
3.10 Street setbacks and street wall heights	Buildings with commercial and retail uses on the ground floor level may build to the boundary line with nil setbacks to both Lakemba and Croydon Streets.	Ground floor built to boundary.																				
3.11 Street setbacks and street wall heights	Residential ground floor uses should accommodate front terrace areas and landscape gardens and provide reasonable amenity.	N/A			N/A																	
3.12 Street setbacks and street wall heights	The street setback area is to be free from any projections or encroachments from any part of new buildings where possible.	Achieved.	Y																			
3.13 Street setbacks and street wall heights	Street wall heights shall be relative to the building height in storeys as per Figure 3a. Otherwise, the street wall height shall be the same as the building height.	N/A – Building less than 6 storeys			N/A																	
<p>Figure 3a: Street wall heights</p> <table><tr><th>Buildings height in storeys</th><th>Street wall heights</th></tr><tr><td>6 storeys (Croydon Street and Railway Parade)</td><td>4 storeys</td></tr><tr><td>7 storeys</td><td>6 storeys</td></tr></table>						Buildings height in storeys	Street wall heights	6 storeys (Croydon Street and Railway Parade)	4 storeys	7 storeys	6 storeys											
Buildings height in storeys	Street wall heights																					
6 storeys (Croydon Street and Railway Parade)	4 storeys																					
7 storeys	6 storeys																					
3.14 Upper level setbacks	The minimum upper levels setbacks are to be 3m as per Figure 3b Setbacks and Upper	Front Setbacks: Minimum 5m proposed	Y																			

CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
CHAPTER 11 KEY DEVELOPMENT SITES
11.4 CROYDON STREET PRECINCT, LAKEMBA

			Compliance		
			Y	N	N/A
	Levels Setbacks.				
3.15 Upper level setbacks	Upper level setbacks must be free of any projections or encroachments from any part of the building.	Achieved	Y		
3.16 Upper level setbacks	The setback area is to be used for private open space where appropriate. The edge is to be created by landscaped planters.	N/A – commercial use			N/A
3.17 Upper level setbacks	All plant rooms and lift overruns are to be positioned to minimise their visibility. The preference is for all plant to be located within the building envelope or basements rather than the roof.	<p>The revised proposal comprises mechanical plant on the roof. It is noted that a 1m high wall is proposed around the plant area, however insufficient information has been provided to determine whether the machinery will be adequately screened from the view of adjoining residential properties or the public domain below.</p> <p>As outlined within the building height section of this report, further information is required to determine the potential visual/solar access impact of the proposed lift overrun.</p>		N	
3.18 Setbacks and upper level setbacks to the overland flow path – Zone B2	Setbacks to the overland flow path edge for developments facing the north-western boundary of the precinct should be consistent with the overland flow path objectives and controls in Chapter 11.4 of this DCP.	The proposal does not comply with the setback requirements and objectives for the overland flow path edge. The Applicant was requested to address this section of the DCP, but has failed to do so.		N	
3.19 Setbacks and upper level setbacks to the overland	A 6m setback from the overland flow path edge is required to the ground floor level to allow for the provision of an elevated walkway with adequate public interface in line with Figures 8a	The proposed design does not incorporate the walkway envisaged by this control.		N	

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			Compliance		
			Y	N	N/A
flow path – Zone B2	and 8b.				
3.20 Setbacks and upper level setbacks to the overland flow path – Zone B2	A 3m setback from the overland flow path edge is required for all floors above ground floor level to allow for adequate solar access to the elevated walkway.	The 3m setback requirement has not been provided for level 1.		N	
3.21 Setbacks and upper level setbacks to the overland flow path – Zone B2	An additional 3m setback from the building edge is to be provided above the street wall height as per Figure 3a: Street Wall Heights	The 3m setback requirement has not been provided for level 1		N	
3.22 Separation	Provide separation distances between building forms in accordance with the ADG recommendations for building separation.	Achieved by virtue of laneway.	Y		
3.23 Separation	Deep soil zones shall be provided within the separation distances between the residential flat buildings within R4 zone.	N/A			N/A
3.24 Separation	When it is not possible to achieve deep soil requirements as suggested by the ADG objectives, possible alternative forms of planting can be provided on top of podium/structures.	N/A – commercial development			N/A
SECTION 4 - STREETSCAPE					
4.1 Street Activation – Zone B2	Active street frontages shall be provided within the B2 zone along Lakemba Street, the new laneway and along the overland flow path.	The proposal does incorporate an active street front to Lakemba Street by virtue of the 4 shop tenancies. However, there is concern that the location of pylons within the frontage of the tenancies will restrict the use of such an also		N	

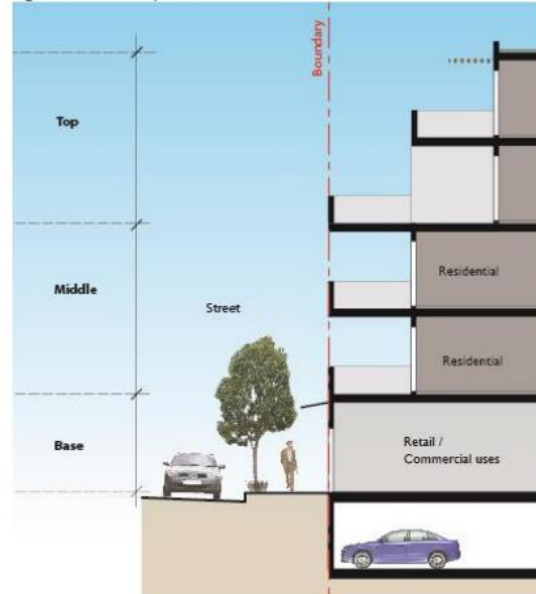
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			Compliance		
			Y	N	N/A
		<p>adversely impact the visibility into and out of the tenancies which contradicts the intent of active uses.</p> <p>The proposed design does not comprise an active street front to the overland flow path, as required.</p> <p>Activation to the laneway needs to be improved through bringing forward the main entrance and reducing the amount of blank wall.</p>			
4.2 Street Activation – Zone B2	<p>New developments within the B2 zone should create a “fine grain” retail/commercial response with narrow frontage shops, level/direct pedestrian entries at the footpath level and display areas to promote window shopping as shown in Figure 4a.</p>	<p>An active street front to Lakemba Street has been proposed however the design of such could be improved as outlined within this report.</p>		N	

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Compliance
Y N N/A

Figure 4a: Streetscape Character – Zone B2



**4.3
Streetscape
Character –
Zone B2**

Proposals shall demonstrate how new developments will respond to and reinforce both the existing and the desired future streetscape.

**4.4
Streetscape
Character –
Zone B2**

New developments along any street or laneway should complement the required street wall heights and setbacks.

The proposal complies with the minimum setback requirements to Lakemba Street however fails to comply with the setback and building design to the overland flow pathway.

**4.5
Streetscape
Character –
Zone B2**

All mixed use developments should provide a human scale and relate to the composition and character of existing buildings at street levels even where taller building forms are provided.

Achieved.

**4.15 Awning
Locations**

Awnings are to be provided within the B2 zone along Lakemba Street, Croydon Street and the new links/laneway where retail or commercial uses are provided.

No awning proposed.

**4.16 Awning
Locations**

Awnings shall define building entries.

No awning proposed.

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11.4 CROYDON STREET PRECINCT, LAKEMBA

			Compliance		
			Y	N	N/A
4.17 Awning Locations	Awning design, height and materials are to be generally in accordance with Council standards.	No awning proposed.		N	
SECTION 5 - LANDSCAPING					
5.1 Deep Soil Zones	Deep soil areas should be provided along Croydon Street, Railway Parade and the new links/laneway.	2.4m wide deep soil area provided along rear boundary (adjacent to laneway)	Y		
5.2 Deep Soil Zones	Street trees with high canopies and a mature height of minimum 5m are to be provided along the length of the new links/laneway to frame views.	<p>The application was referred to Council's Landscape Architect who raised no objection, subject to conditions.</p> <p>Notwithstanding the above, Council's assessment of the application has noted that the proposed landscape plan is inconsistent with the proposed architectural plans, particularly in relation to the incorporation of an acoustic wall along the southern boundary. The acoustic wall shown in the architectural plans could impact on the landscaping proposed. Therefore, despite Council's Landscape Architect raising no objection, Council considers insufficient information has been submitted at this stage and any future DA should ensure the plans are consistent to ensure the proposed outcome is achievable.</p>		N	
5.3 Deep Soil Zones	Basements are to be contained within the building footprint.	Basement contained within footprint	Y		
5.4 Deep Soil	High quality landscape and	The application was		N	

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11.4 CROYDON STREET PRECINCT, LAKEMBA

			Compliance		
			Y	N	N/A
Zones	canopy trees shall be provided within deep soil area and within street setbacks.	referred to Council's Landscape Architect who raised no objection, subject to conditions. Notwithstanding the above, Council's assessment of the application has noted that the proposed landscape plan is inconsistent with the proposed architectural plans, particularly in relation to the incorporation of an acoustic wall along the southern boundary. The acoustic wall shown in the architectural plans could impact on the landscaping proposed. Therefore, despite Council's Landscape Architect raising no objection, Council considers insufficient information has been submitted at this stage and any future DA should ensure the plans are consistent to ensure the proposed outcome is achievable.			
5.5 Deep Soil Zones	Street trees in accordance with Council's street tree policy/public domain plan are to be provided to Lakemba Street, Railway Parade, Croydon Street and the new laneway.	Council's Tree Management Officer has reviewed the proposal and raises no objection, subject to conditions of consent should the application be supported.	Y		
5.6 Communal Open Space	Communal open spaces are to be provided either in the rear setbacks or the wider open space areas.	No communal area required given the proposed use.			N/A
5.7 Communal	An area of central communal open space with minimum	N/A			N/A

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			Compliance		
			Y	N	N/A
Open Space	dimensions of 28m □ 28m comprising a minimum of 900m ² of contiguous communal open space is to be provided in the R4 zone.				
5.8 View Corridors	The built form shall not obscure the view corridors along the new links.	The proposed design does incorporate a landscaped corridor and pedestrian pathway within the overland flow pathway. However, the architectural plans indicate that a 1.8m high acoustic wall will run along part of the southern boundary which will restrict access beyond the site and associated view corridors.		N	
5.9 View Corridors	The landscape within view corridors should frame views to public open spaces and should not block eye line level views.	Council's Landscape Architect has reviewed the proposal and raises no objection, subject to conditions should the application be supported.	Y		
SECTION 6 – PEDESTRIAN AND VEHICULAR LINKS/ACCESS					
6.1 New Vehicular and Pedestrian Links/Access	The street reserve width of the new laneway connecting Railway Parade and Croydon Street is to be a minimum of 8.9m including a 6.5m carriageway with a kerb of 1.2m and a verge of 0.6m on one side and a verge of 0.6m on the other side as shown in Figure 6a: Typical New Laneway.	N/A			N/A
6.2 New Vehicular and Pedestrian Links/Access	The laneway is to provide full public access at all times.	N/A			N/A
6.3 New Vehicular and Pedestrian Links/Access	In the R4 zone, built form is to be setback to allow for front terraces and landscaped planters to buffer the ground floor levels and provide a reasonable degree of privacy.	N/A			N/A

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			Compliance		
			Y	N	N/A
6.4 Vehicular and Building Entries	All buildings are to have a direct address from a street or the new laneway. Wide exposed driveways and driveways in the side setbacks or the separations between buildings are not supported.	<p>Pedestrian access from the rear could be improved to be more inviting and legible.</p> <p>The proposed acoustic wall located along part of the southern boundary will restrict vehicular access.</p>		N	
6.5 Vehicular and Building Entries	Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date.	The proposed acoustic wall located along part of the southern boundary will restrict vehicular access to the laneway.		N	
6.6 Vehicular and Building Entries	Vehicle access, where possible, is to be a single lane crossing with vehicle passing bays to be provided in the basement. Traffic management measures as required by Council are to be provided.	As outlined earlier within this report, Council's Traffic Engineer raises concerns regarding the proposed vehicular entry point.		N	
6.7 Vehicular and Building Entries	Vehicle entry points are to be encapsulated into the building design and to be visually recessive.	As outlined earlier within this report, Council's Traffic Engineer raises concerns regarding the proposed vehicular entry point.		N	
6.8 Vehicular and Building Entries	Driveway widths must comply with the relevant Australian Standards.	As outlined earlier within this report, Council's Traffic Engineer raises concerns regarding the proposed vehicular entry point.		N	
6.9 Vehicular and Building Entries	Vehicle and service entries are not to be adjacent to residential entries.	The proposal incorporates a vehicular exit point to the laneway that adjoins residential properties. However, the acoustic report recommended an acoustic fence to be		N	

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			Compliance		
			Y	N	N/A
		constructed to ensure relevant noise criteria is met which subsequently restricts access to the laneway.			
6.10 Vehicular and Building Entries	Pedestrian entry shall be clearly defined in the built form, visible from the public domain and directly accessible from the street (not along the side boundaries).	Pedestrian access from the rear could be improved to be more inviting and legible – acoustic wall prohibits and none provided along building		N	
6.11 Site Facilities and Services	Access for waste collection and storage is to be from the new laneway where possible.	Council's Resource Recovery Officer raises no objection to proposal, subject to conditions of consent, should the application be supported.	Y		
6.12 Site Facilities and Services	Waste storage is to be in basements. Temporary waste collection areas can be at ground level within a discreet service area that is not visible from the street frontage and is screened from the adjacent developments overlooking the area.	Council's Resource Recovery Officer raises no objection to proposal, subject to conditions of consent, should the application be supported.	Y		
6.13 Parking	Parking provision shall comply with Chapter 3.2 of this DCP.	Traffic Engineer raises concerns regarding the number of parking spaces proposed. The proposed design is deficient 49 spaces which is not acceptable.		N	
6.14 Parking	In the B2 zone, on-site parking is to be accommodated either within the basement or if above ground is to be 'sleeved' from the public domain.	Parking has been proposed within the basement and above ground.	Y		
6.15 Parking	A minimum depth of 8m as a 'sleeved' zone is to be provided between above ground parking areas and the public domain or private external spaces. The 'sleeve' zone allows for active	Parking to be within basement and above ground. However the above ground parking does not provide the sleeve zone that allows		N	

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			Compliance		
			Y	N	N/A
	uses fronting the public domain.	for active uses fronting the public domain.			
6.16 Parking	In the R4 zone, car parking is to be provided in basements below ground unless Council is satisfied that unique site conditions prevent achievement of parking in full basements.	N/A			N/A
6.17 Parking	Basement car parking is to be generally located below the natural ground level. Any protrusion above natural ground level is not to exceed 1m.	Max 1m	Y		
6.18 Parking	The basement walls visible above natural ground level must be appropriately finished and appear as an integrated part of the landscaping.	The proposed basement wall has not been integrated into part of the landscaping.		N	
6.19 Parking	Basements are to be located directly below building footprint other than narrow links to another building basement to maximise deep soil areas.	Achieved.	Y		
6.20 Parking	Bicycle parking is to be in secure and accessible locations with relevant protection.	Achieved.	Y		
6.21 Parking	Visitor parking should be freely available.	Achieved.	Y		
SECTION 7 – BUILDING ARTICULATION					
7.1 Building Exteriors	Facades shall be articulated and elements such as fins, bays and insets shall be used to reduce scale and provide visual interest.	As highlighted by the Urban Design Panel. The proposed external colours and materials are not supported. The exposed concrete soffit is unlikely to be high quality due to the design of the building and the care required during construction. Majority of the walls are presumed to be render and paint which is not supported. The design comprises extensive expanses of		N	
7.2 Building Exteriors	External colours and materials shall reflect the local identity and shall provide a good contextual fit.				
7.3 Building Exteriors	High quality and durable materials and finishes shall be used within the precinct.				
7.4 Building Exteriors	Painted render shall be minimised. Low maintenance and graffiti resistant materials are encouraged within the precinct.				

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			Compliance		
			Y	N	N/A
7.5 Building Exteriors	Extensive expanses of blank glass or solid walls are not supported.	blank solid walls. The proposed screening to be applied to the blank walls is not supported.			
7.6 Building Exteriors	A combination of solid and glass balustrades to balconies is encouraged to screen cloth drying areas.	N/A			N/A
7.7 Corner Buildings	Corner buildings should address both frontages and use architectural features and materials to reinforce the corner.	N/A			N/A
7.8 Corner Buildings	Additional height is not supported to reinforce corners.	N/A			N/A

SECTION 8 – OVERLAND FLOW PATH

The Applicant has failed to undertake an assessment of the proposed design against the relevant provisions contained within Section 8 of CBDCP 2023. The Applicant was requested a number of times during the assessment phase to ensure the proposal (and subsequent SEE) is revised to consider and address the controls contained within this section. The Applicant has ignored this request and has failed to provide such. The assessment below has solely been undertaken by Council only.

8.1	All developments (within B2 zone) should allow for active edges and high quality streetscape while ensuring the provision of shelter in place and/or safe evacuation in case of flood hazard.	The proposed design does not provide for an active frontage towards the overland flow path, as required.		N	
8.2	A level change between the pedestrian link and the building ground floor of maximum 900mm should be provided. If a higher flood threshold is required, the total rise can be divided into two sections; up to 900mm on the front to the link and then an upper-level pedestrian promenade. It is essential that links maintain the same levels and connects to adjacent properties and the public domain.	The proposed change in level provided is greater than the minimum requirement specified within the flooding documentation submitted. As outlined earlier within this report, insufficient information has been provided to determine whether the proposed design satisfies flooding requirements. Therefore, insufficient information has been provided to determine compliance with this control, as this		N	

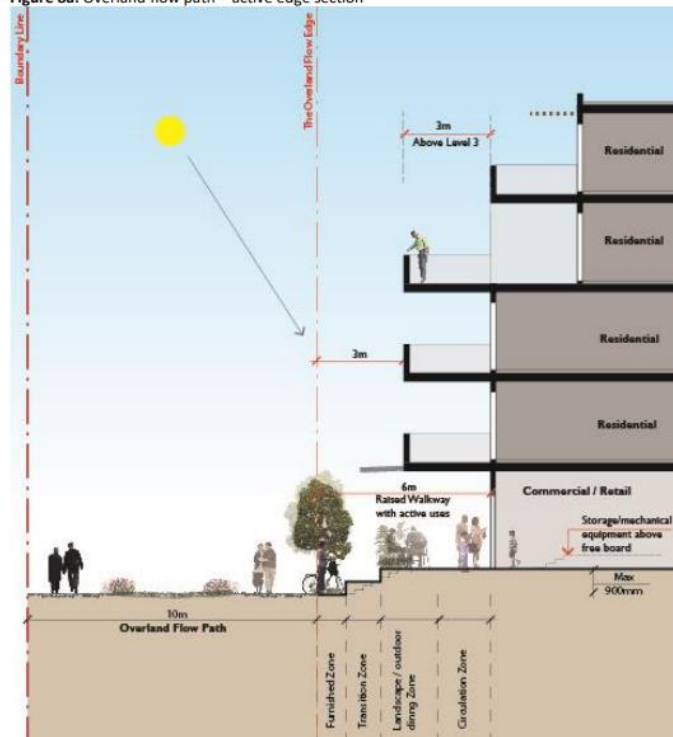
CANTERBURY BANKSTOWN DEVELOPMENT CONTROL PLAN 2023
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			Compliance		
			Y	N	N/A
		stage.			
8.3	The raised ground floor level should feature space for accessibility, circulation, and activities. Circulation requires activation, direct access to lobbies and inviting connections to the public domain as shown in Figures 8a and 8b.	The proposed ground floor does not reflect the design envisaged by Figures 8a and 8b. The western façade of the ground floor does not comprise any space for accessibility, circulation or activities.		N	
8.4	A 6m setback is required on the ground floor level to the edge of the overland flow path to enable integration of stairs and ramps with landscaping, feature lighting, generous terraces, seating, bike racks and the like. The ground level must provide ample opportunities for window shopping, cafes external seating and pedestrian movement as shown in Figures 8a and 8b.	The proposed ground floor does not reflect the design envisaged by Figures 8a and 8b. The western façade of the ground floor does not comprise any space for accessibility, circulation or activities, seatings or the like.		N	
8.5	A 3m upper levels setback from the overland flow path edge is required for all floors above ground to allow for adequate solar access to the raised walkway.	Level 1 does not comprise the 3m upper level setback.		N	
8.6	An additional 3m setback from the building edge is to be provided above the street wall heights.	Level 1 does not comprise the 3m upper level setback.		N	
8.7	A high frequency of pedestrian connections (stairs, ramps, terraces) are to be provided along the step to ensure maximum permeability and safe evacuation.	The western façade does not comprise pedestrian connections.		N	
8.8	The use of floodable steps, ramps and terraces is encouraged outside flood events to utilize floodplain areas while still achieving flood protection through the grade changes.	The western façade does not comprise any steps or ramps or terraces.		N	

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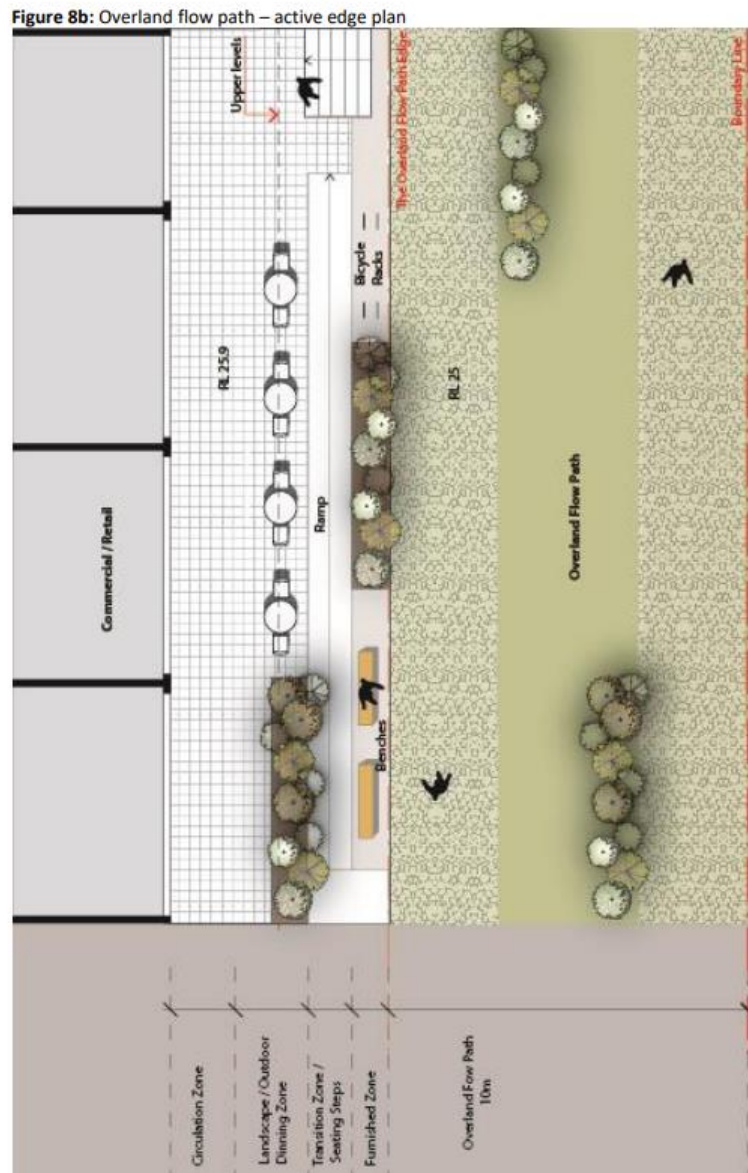
			Compliance		
			Y	N	N/A
8.9	Any development within or adjacent to the overland flow path must prepare a site emergency floodplain plan and demonstrate safe evacuation.	Has not been provided for Council consideration.		N	
8.10	Development of lots that are impacted by the existing overland flood path or contain existing underground stormwater infrastructure shall produce plans for approval for the relocation and upgrade the existing stormwater drainage infrastructure within the proposed overland flow corridor. These works shall be undertaken at the developer's costs and may require a specific agreement with Council.	As outlined earlier within this report, insufficient information relating to the stormwater infrastructure has been provided to facilitate Council's Asset Planner's assessment of the application.		N	

Figure 8a: Overland flow path – active edge section



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Compliance
Y N N/A



Canterbury-Bankstown Local Infrastructure Contributions Plan 2022

This Contributions Plan is applicable to the proposal. However, given the proposal is recommended for refusal, contributions payable have not been calculated.

- (d) **Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

A planning agreement has not been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*, nor has a draft planning agreement been offered by the applicant.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

The proposed development is consistent with the applicable provisions contained in the *Environmental Planning and Assessment Regulation 2021*.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts relating to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above. Further to this assessment are the following comments;

Environmental impacts on the natural environment

- Insufficient information has been provided to determine whether the proposal will interfere with existing aquifers.
- Insufficient information has been submitted to determine whether the site is suitable from a contamination perspective.
- Insufficient information has been provided to determine the potential flood impacts on the site and whether the proposed stormwater management design is sufficient to support the proposed development.
- Conflicting information has been submitted to date (i.e. solar access plans, architectural plans, acoustic report etc) and therefore insufficient information has been provided to facilitate a detailed and thorough assessment of the proposal and proposed environmental impacts on the natural environment.

Environmental impacts on the built environment

- The proposed building height exceedance will likely result in additional overshadowing impacts on adjoining residential properties.
- The proposed design is inconsistent with key design controls envisaged for the site, particularly in regards to the use and presentation to the overland flow path that connects the Baptist Church and Lakemba Street to Jubilee Park and Railway Parade.
- The revised acoustic report does not consider the amended design and therefore insufficient information has been submitted to determine whether the proposal will result any adverse acoustic impacts.
- The proposal will likely result in adverse traffic and parking implications within the site and surrounding roads given the extent of deficient parking proposed.
- Insufficient information has been provided to demonstrate how the uses within the site will operate together and/or separately and therefore the likely impacts of such could not be determined at the time of this assessment.

- Conflicting information has been submitted to date (i.e solar access plans, architectural plans, acoustic report etc) and therefore insufficient information has been provided to facilitate a detailed and thorough assessment of the proposal and proposed environmental impacts on the built environment.

Social impacts on the locality

- In light of the above, the proposed development would have adverse social impacts on the broader locality.

Economic impacts on the locality

- The proposed development would provide significant employment opportunities during the construction and operational stages of the development.

Accordingly, it is considered that the proposal will result in significant adverse impacts in the locality as outlined above. This forms part of the recommended reasons for refusal of the application.

3.3 Section 4.15(1)(c) - Suitability of the site

The site is not considered to be suitable for the development as proposed given the lack of information provided to facilitate an assessment against the provisions contained within CBLEP 2023, CBDP 2023 and other relevant planning legislation coupled with the extent of variations sought, particularly in regard to building height and parking. This forms part of the recommended reasons for refusal of the application.

3.4 Section 4.15(1)(d) - Public Submissions

The proposal was notified in accordance with the Council's Community Participation Plan from 21 February 2023 – 19 March 2023. No submissions were received.

3.5 Section 4.15(1)(e) - Public interest

For the reasons outlined within this report, the proposed development would contravene the public interest. This forms part of the recommended reasons for refusal of the application.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act as outlined below in **Table 8**.

Table 8

Agency	Concurrence/ trigger	referral	Comments (Issue, conditions)	resolution,	Resolved
Concurrence Requirements (s4.13 of EP&A Act)					
NSW Department of Primary Industries	Fisheries (<i>Fisheries Management Act 1994</i>) <ul style="list-style-type: none"> • 201 Circumstances in which a person (other than a public or local government authority) may carry out dredging or reclamation • 204A Marine vegetation protected from any harvesting or other harm • 205 Marine vegetation—regulation of harm • 219 Passage of fish not to be blocked Biodiversity (<i>Biodiversity Conservation Act 2016</i>) <ul style="list-style-type: none"> • Part 7 Biodiversity assessment and approvals under Planning Act 				N/A
Water NSW	Water use (<i>Water Management Act 2000</i>) <ul style="list-style-type: none"> • 89 Water use approvals Drainage works (<i>Water Management Act 2000</i>) <ul style="list-style-type: none"> • 90 Water use approvals Controlled activity (<i>Water Management Act 2000</i>) <ul style="list-style-type: none"> • 91 Activity approvals 				N/A
NSW National Parks and Wildlife Service	Aboriginal heritage (<i>National Parks and Wildlife Act 1974</i>) <ul style="list-style-type: none"> • 90 Aboriginal heritage impact permits 				N/A

Agency	Concurrence/ referral trigger	Comments (Issue, conditions) resolution,	Resolved
NSW Rural Fire Service	Bush fire prone land (Rural Fires Act 1997) <ul style="list-style-type: none"> 100B Bush fire safety authorities 		N/A
Transport for NSW	Other works and structures (<i>Roads Act 1993</i>) <ul style="list-style-type: none"> 138 Works and structures Transport and Infrastructure SEPP 2021 <ul style="list-style-type: none"> S2.119(2) Development with frontage to classified road 	Comments have been received from TfNSW, no issues raised.	Y
Heritage NSW	Subdivision (<i>Heritage Act 1977</i>) <ul style="list-style-type: none"> 58 Application of Subdivision 		N/A
Sydney Metro Airport	The Civil Aviation (Building Control) Regulation 1988 (Schedule 5) Building height over 15.24m		N/A
Ausgrid	Transport and Infrastructure SEPP 2021 <ul style="list-style-type: none"> 2.48 Determination of development applications—other development 	Comments have been received, no issues raised subject to conditions.	Y

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 9**.

Table 9

Agency	Comments	Resolved	
		Y	N
Engineering	Council's Development and Asset Stormwater Engineering Officers reviewed the stormwater concept plan (and associated documentation) and raised a number of concerns as outlined earlier within this report.		✓
Design Review Panel	The Design Review Panel considered the proposed design and for the reasons outlined within Attachment C, the Panel, and Council, are not satisfied that the development exhibits design excellence as required by Clause 6.15 of CBCLEP 2024.		✓
Urban Design	Council's Urban Designer has reviewed the application and raised a number of concerns relating to relationship with neighbouring sites, bulking mass and modulation, architectural design, façade design and materiality, environmental impacts and sustainable design, landscape design, safety, location of mechanical plants and services. Details relating these concerns are provided in the referral comments held at Attachment D.		✓
Traffic	Council's Traffic Engineer reviewed the proposal and raised a number of concerns as outlined earlier within this report.		✓
Environmental Health	<p>Council's Environmental Health Officer reviewed the proposal and the reports provided and raised the following matter:</p> <p><i>An NSW Environment Protection Authority accredited site auditor must be appointed to audit reports compiled as part of the contaminated land assessment, remediation, and validation process.</i></p> <p><i>Prior to consideration of development consent, a site audit statement and Site Audit Report must be provided to Council from the site auditor that clearly states that the site is, or can be, made suitable for the intended use.</i></p> <p><i>The site audit statement and site audit Report must include any restrictions or management requirements for the site.</i></p> <p><i>The site audit statement and site audit report must be submitted to Council in writing.</i></p>		✓
Waste Management	Council's waste officer reviewed the proposal and is satisfied that it can be serviced and meets the requirements subject to conditions of consent, should the application be supported.	✓	

Tree Management	Council's Tree Management has reviewed the proposal and submitted Arborist Report and had no objections, subject to conditions of consent, should the application be supported.	✓	
Landscape Architect	Council's Landscape Architect has reviewed the proposal and submitted Arborist Report and had no objections, subject to conditions of consent, should the application be supported.	✓	
Building Surveyor	Council's Building Surveyor reviewed the proposal and had no objections, subject to conditions of consent, should the application be supported.	✓	
Community Safety	Council's Community Safety Officer reviewed the proposal and had no objections, subject to conditions of consent, should the application be supported.	✓	

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 18 January 2023 to 14 February 2023. No submissions were received by Council during the exhibition period.

5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. The above assessment report provides for a detailed assessment of the site and its surrounds and the manner in which this development application addresses the relevant planning legislation and controls.

As outlined within the body of this report, the proposal, in its current form, seeks a number of variations to key development controls (e.g. building height, design of the overflow flood path, parking). Furthermore, the proposal is deficient in information to undertake a detailed assessment against other key development controls, including but not limited to, stormwater, flooding and potential environmental impacts (i.e solar access, acoustic, visual privacy). The proposed extent of variations coupled with lack of information required to undertake a detailed assessment of the potential impacts of the proposal is not acceptable. The development also fails to exhibit design excellence as required by Clause 6.15 of CBLEP 2023. Support of a proposal of this nature will result in a development that is not suitable for the site and is not in the public interest.

As such, it is concluded that the development has not got merit and is therefore not worthy of being supported. Subsequently, it is recommended that the application be refused for the reasons outlined within **Attachment A**.

6. RECOMMENDATION

That the Development Application No 30/2024 be REFUSED pursuant to Section 4.16(1)(B) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Reasons for Refusal
- Attachment B: Architectural Plans
- Attachment C: Design Review Panel – Design Advice Report
- Attachment D: Council Urban Design Comments