

15 August 2024

The General Manager
Canterbury Bankstown Council
PO Box 8
BANKSTOWN NSW 1885

Attention: Planning Department

Dear Sir/Madam,

**Re: Section 4.55(2) Modification to Development Application DA-723/2021
17 BRYANT STREET, PADSTOW**

The proposal before Canterbury-Bankstown Council seeks to modify approved Development Application No. 723/2021 under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979.

Development Application No. 723/2021 was approved by way of deferred commencement on 26 September 2022 by Canterbury Bankstown Council for *'Demolition of existing structures and construction of 5 new buildings containing 36 warehouse units'*.

A Section 4.55 (1) modification was approved on 1 June 2023 to *'correct an error in the description of the Consent which refers to 36 warehouse units instead of 38 warehouse units'*.

The deferred commencement condition to construct an acoustic wall as approved under DA-1009/2019 was satisfied, for an operative consent on 30 August 2023 for DA 723/2021.

Generally, the proposed modifications include additional floor area to warehouse unit 1 by infilling the eastern boundary elevation; a reduction in the number of warehouses through the merging of two approved warehouse units (proposed total of 37 units); adjustment to landscaping, relocation of car parking and waste areas, and two (2) additional car parking provided on-site. Details of all modifications are outlined on Page 5 of this report.

SUBJECT SITE AND BACKGROUND

The subject site is commonly known as 17-23 Bryant Street, Padstow and is legally defined as Lot 201 in Deposited Plan 811183.

The site is trapezoidal in shape with a single frontage of 121.905m to Bryant Street. The eastern and western side boundaries measure 132.865m and 138.785m, respectively, with the rear boundary equalling 76.465m. Overall, the site provides for an area of approximately 1.325ha.

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There are two vehicle access points at the street frontage, one at the eastern side and one at the western side of Bryant Street. Reference should be made to the following Figure 1 – Site Location Map.



Figure 1: Site Location Map (Source: Canterbury Bankstown Council Mapping)

To the rear, the site adjoins light industry. To the west, the site adjoins an area of R2 Low Density Residential zoned land. Opposite the site on the northern side of Bryant Street are also light industrial operations. Refer to the following Land Zoning Map below.

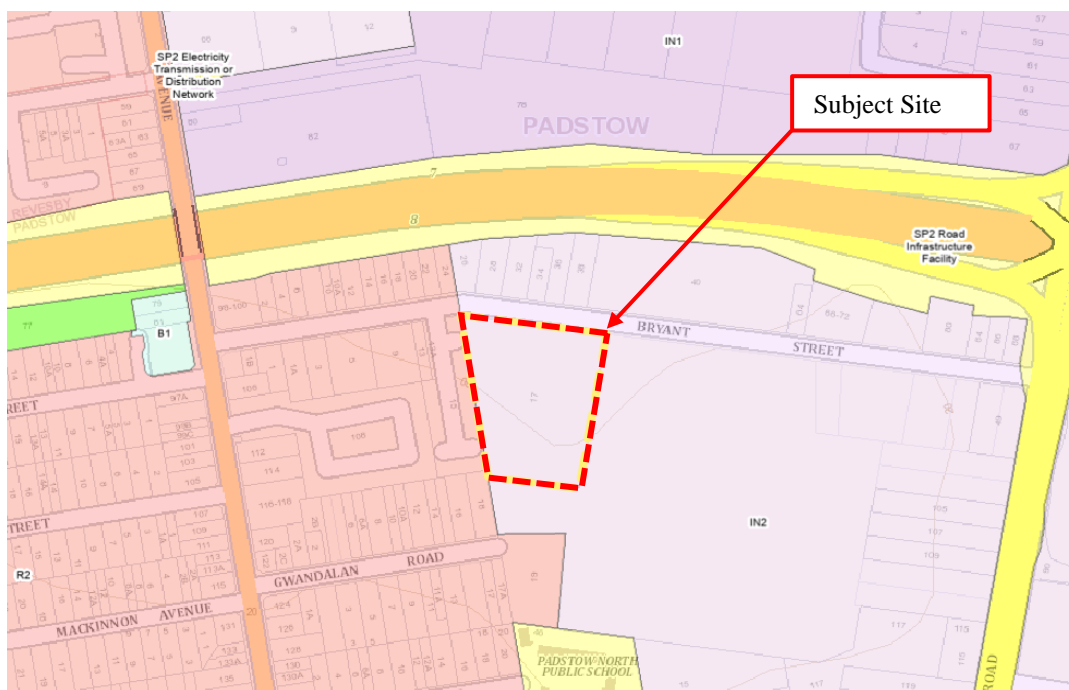


Figure 2: Zoning Map (Source: NSW Planning Portal)

DEVELOPMENT HISTORY

There is an extensive history of development at the subject site. Relevant applications are listed below:

- DA-1002/2019 was approved on 1 September 2020 by the Land Environment Court for '*Construction of an acoustic wall, varying in height from 4.3 to 5.8m and setback 1.0-2.0m from the western and part of the southern boundaries of the site with landscaping in the setback, and introduction of a storage area adjacent to the existing built form towards the front (north-western) portion of the site with a 1.8m high acoustic wall along the western side of the proposed storage area.*'
- DA-723/2021 was approved on 26 September 2022 by way of deferred commencement by Council for '*Demolition of existing structures and construction of 5 new buildings containing 36 Warehouse units*'
- Modification DA723/2021/A was approved on 1 June 2023 by Council to '*Correct an error in the description on the Consent which refers to 36 warehouse units instead of 38 warehouse units[Section 4.55(1)]*'.
- On 14 June 2023, a Private Certifier issued Complying Development Certificate was issued for '*construction of an acoustic wall along boundary fence as required by Council*'.
- The construction of the acoustic wall satisfied the deferred commencement conditions and the consent of DA-732/2021, which is operative as of 30 August 2023.

DA-723/2021

DA-273/2021, as approved by Canterbury Bankstown Council, is for the demolition of existing structures and construction of 5 warehouse buildings with 38 warehouse units (*Number of units in description corrected with Mod DA-273/2021/A*) which consists of the following:

- 5 warehouse buildings
 - 38 warehouse units
- 94 car parking spaces
 - Including 2 accessible spaces
- 10 bicycle spaces
- Landscaped common area with outdoor seating

The warehouse units as approved present as two storeys with a typical layout consisting of the following:

- Ground/entry-level warehouse with pedestrian and roller door access to a loading dock, storage and bathroom
- First Floor office
- Upper mezzanine

Site works approved included the removal of the existing three vehicle entries from the front of the site for a larger, centrally located driveway entry. The application also included the acoustic wall along the western side of the site, as approved under DA-1002/2019.

PROPOSED MODIFICATIONS

The proposal before Council is a Section 4.55(2) Application to modify DA-723/2021. A detailed description of the proposed changes is provided below:

- Merging of Warehouse Units 1 and 2:
 - Reduction in the number of Units from thirty-eight (38) to thirty-seven (37).
- Reconfiguration and reduction to GFA to Unit 27 in the south-western corner;
- Modifications to Warehouse Unit 1:
 - Additional 190m² ground floor area to Unit 1 extending south;
 - Removal of the office approved on the northeast corner of Unit 1;
 - Built form between Unit 1 and Unit 11 is now connected;
 - Additional 127m² mezzanine area connecting the mezzanines of Unit 1 and former Unit 2;
 - Reduced north-facing windows;
 - One (1) business identification wall sign on the north side of Unit 1.
- Increase in roof height/RL from 31.83m ADH to 32.86m AHD;
- Relocation of bin storage from the western side of Unit 28 to the north side of Unit 28.
- Relocation of two (2) car spaces approved near Unit 1:
 - One space relocated northwest of Unit 11;
 - One space relocated to the car parking bay on the western side of the site;
 - Minor adjustments of landscaping between car spaces 8 and 9 on the western side reduce width to relocate one of the car spaces.
- Increase car parking from ninety-four (94) to ninety-six (96):
 - The two (2) additional car parking spaces provided west of Unit 28.
- Services:
 - Main water meter and fire hydrant booster assembly services are provided north of Warehouse Unit 7;
 - A second substation is provided north of Unit 3;
 - Two (2) main switchboards are located in front of Unit 1
 - NBN pit locations are provided in the front of the site and internally located in front of door entries to the Warehouse Unit.

As a result of the infill addition to the eastern side of the site, increasing the size of approved Unit 1 and ultimately connecting to Unit 11, the **development description** would therefore change from five (5) buildings to four (4) buildings, but is consistent with the originally approved built form. Further, the total number of Warehouse Units is reduced from thirty-eight (38) to thirty-seven (37) by combining approved Units 1 and 2 to form a larger modified Warehouse Unit 1.

An excerpt of the proposed modifications to the ground floor, illustrating the merging of two units into one, and an increase to the size of this unit by infilling the space between Units 1 and 11 is provided below, in Figure 3.

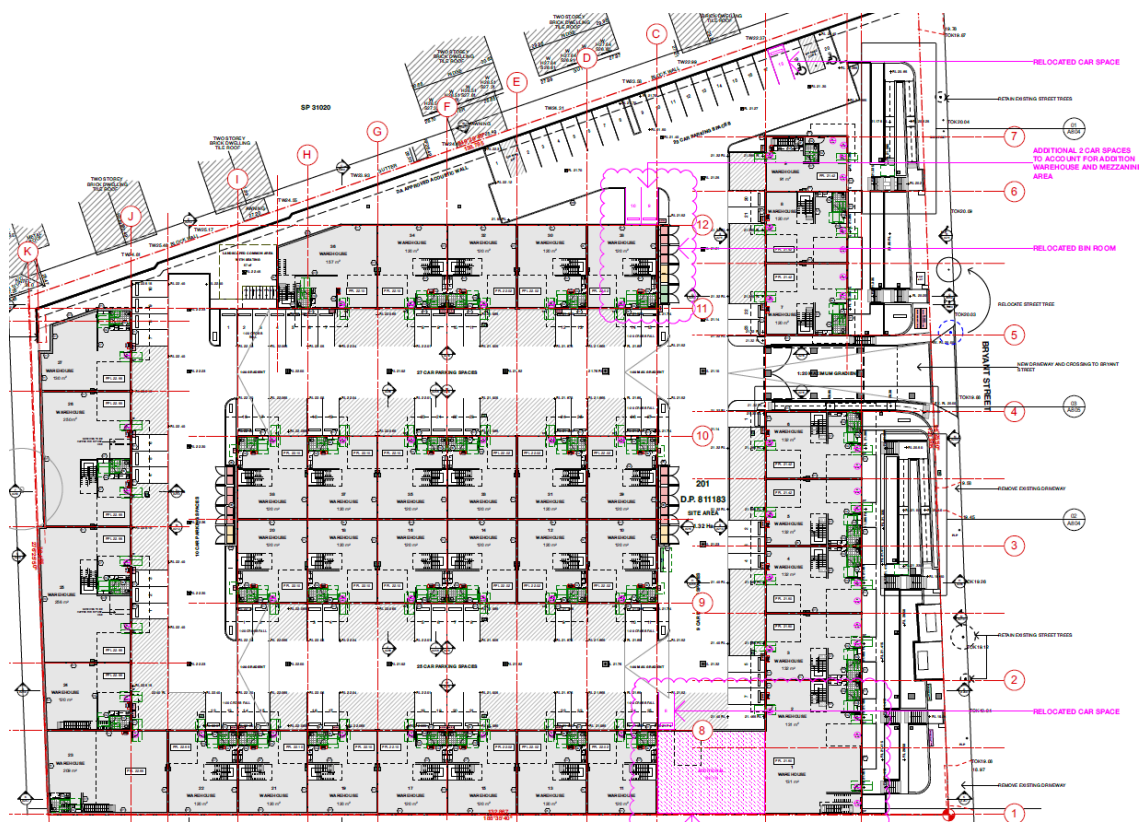


Figure 3: Modified ground floor Plan (Prepared by Architects Becerra)

SECTION 4.55 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

It is considered that the development can be determined under Section 4.55(2) of the Environmental Planning & Assessment Act 1979, which states as follows:

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

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:
(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

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

In order to have the ability to modify a development consent under Section 4.55(2) of the Environmental Planning and Assessment Act 1979, Council must be satisfied that the development as modified would be *substantially the same* as the development for which the development consent was originally granted. The planning merits of the modification are not relevant to the determination of the threshold question of whether the development to which the consent relates would be *substantially the same* development as the development for which consent was originally granted.

In this regard, Council must apply the “*substantially the same development test*” to any Section 4.55 Application lodged. Case law in **Vacik Pty Ltd v Penrith City Council** (Stein J, 10242 of 1991, 24 February 1992) stated this test in the following terms:

“... ‘substantially’ when used in the section means essentially or materially or having the same essence”.

In relation to determining whether the proposed modified development is “*essentially or materially*” the same as the approved development. Justice Bignold in **Moto Projects No. 2 Pty Ltd v North Sydney Council** (1999) 106 LGERA 298 at 309, states:

“The relevant satisfaction required by s 96(2) (a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.

The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the (currently) approved development.

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared....”

In light of the above, the Section 4.55 proposal is “essentially or materially” the same as the development that was initially approved by Council.

The overall built form and building envelope is consistent with the essence of the original approval. Taking into consideration the overall intention and context of the development approved, the increased floor area and size of Unit 1, and an additional two (2) car spaces and other modest modifications are sympathetic to the extent and operational feasibility of the development already approved. The modifications appear to numerically reduce the number of new buildings to from five (5) to four (4), and the number of Warehouse Units from thirty-eight (38) to thirty-seven (37), the development as modified is substantially the same built form with the numerical reduction described resulting from the combination of approved units, and additions that join to industrial buildings that were separated when originally approved.

As such, the characteristics of the development when taking into consideration the quantitative and qualitative aspects are essentially considered the same. The reasons for this include:

- ❑ The modification reduces the total number of Units from thirty-eight (38) to thirty-seven (37) however, this is through combining Units 1 and 2.
- ❑ The change in Gross Floor Area (GFA) of 265m² is a negligible increase of only 2.99% of the approved GFA, from 9,107m² to 9,380m².
- ❑ The increase in GFA is provided to only one (1) Unit.
- ❑ The modifications retain the approved waste storage and collection, with minor relocation.
- ❑ The modification increases the car parking by only two (2) spaces and is an increase of only 2.1% over the approved parking. The additional parking facilitates parking for the additional gross floor area to Unit 1.

- ❑ The modification retains the Acoustic wall as approved by DA-1009/2019 that was to satisfy the deferred commencement of DA-723/2021, ensuring no amenity impact to the western residential development.
- ❑ Only Unit 1 proposes an increase in roof height by 1.15m which accounts for an increase of only 3.61% (from 31.83m to 32.98m AHD).
- ❑ The modifications proposed do not result in any variation to the building height, FSR or building setback compliance and are suited for the context of the development.
- ❑ The changes proposed that are in view from Bryant Street are minimal with services added, a minor wall increase of the access ramp balustrade and an additional business identification sign on the north side of Unit 1.
- ❑ The amenity of residential properties west of the site is retained as no change to the acoustic wall or buildings on the western side of the site is proposed.

Moto Projects at [62] also provides a guide to compare the “*consequences such as environmental impacts*” when deciding if a modification is substantially the same. In this case, a consequence of the modification compared to the original approval is a minor change in GFA, building height, and car parking on the site. The modifications do not alter the buildings on the western side of the site and therefore, will not increase any potential for overshadowing or overlooking the residential properties west of the site. The provision of services, balustrades to the street front, and one (1) business identification sign on the north side of unit 1 results in minimal change to the approved streetscape presentation to Bryant Street. The proposed modifications facilitate additional safety for visitors/employees and necessary services for the operation of the development.

In addition to the tests established and discussed above, a recent Land and Environment Court Judgement provide further caselaw in clarifying the test if a modification is ‘substantially the same’ as per S4.55 and 4.56 of the Act. The caselaw is established across two judgements, **Realize Architecture Pty Ltd v Canterbury-Bankstown Council [2023] NSWLEC 1437** (Realize Architecture (1) for reference) and **Canterbury-Bankstown v Realize Architecture Pty Ltd [2024] NSWLEC 31** (Realize Architecture (2) for reference).

These judgements place emphasis on the test to determine if a modification is substantially the same is to be a balance of considering the quantitative and qualitative differences in a modification. In this case, the key quantitative changes include:

- A minor increase to GFA of only 2.9% from the originally approved GFA (remains compliant with the FSR standard);
- A minor increase to car parking of 2.1% from the approved (to accommodate the additional GFA);
- A minor increase to the approved building height of 1.03m;
- A comparable number (37) of warehouse units.

The qualitative changes considered above include:

- A balance of GFA between the reconfiguration of Unit 27 and addition to Unit 1;
- The alterations and additions proposed for one Unit (Unit 1), do not impact adjoining amenity;
- The proposed modification has minimal impact on the streetscape presentation;

- Site landscaping adjustments, balustrading, and the location of services within the Bryant Street frontage are essential elements for business/building identification; safety and the overall operational requirements of the development.

In consideration of the above, it is concluded that the proposal is substantially the same development that was approved by Council initially, and as such satisfies the 'substantially the same development' test under Section 4.55 of the EP & A Act.

It is therefore considered that the proposal is consistent with Clause 4.55(2) of the Environmental Planning & Assessment Act, 1979.

CONSIDERATIONS OF THE PROVISIONS OF SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(1) Matters for consideration – general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development, the subject of the development application.

(a) The provisions of:

(i) any environmental planning instrument

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

This has been considered as part of the original approval which included submission of a Detailed Site Investigation Report prepared by Foundation Earth Sciences dated 17 July 2021 as approved with DA-723/2021. No change to the recommendations made by the report or conditions of consent are proposed in this modification. Therefore, in accordance with the Resilience and Hazards SEPP, Council is able to conclude that no further assessment of contamination is necessary.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 – Vegetation in Non-Rural Areas

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the clearing of vegetation in non-rural areas. The modification does not propose any tree removal.

Chapter 6 – Water Catchments

Chapter 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the protection of certain Water Catchments. As the subject site is within the Georges River Catchment (formerly under Greater Metropolitan Regional Environmental Plan No.2 Georges River), Chapter 6 of SEPP (Biodiversity and Conservation) 2021 applies to the site.

This modification does not propose any change to the use or operation of the site that would alter compliance with Chapter 6 of the SEPP.

The original approval included stormwater drainage plans prepared by United Consulting Engineers Pty Ltd dated 15 July 2024 and approved with consent DA-723/2021. No change is proposed as part of this application that would alter the development's overall compliance with the SEPP. The modifications will not contribute to any pollutants or runoff from the site upon the Georges River.

STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

Chapter 3 of the State Environmental Planning Policy (Industrial and Employment) 2021 relates to advertising and signage. Clause 3.6 of the SEPP outlines that the consent authority must not grant consent to an application to display signage unless the consent authority is satisfied -

- (a) that the signage is consistent with the objectives of this Chapter as set out in Section 3.1(1)(a), and
- (b) that the signage the subject of the application satisfied the assessment criteria in Schedule 5.

The modification proposed one (1) additional wall sign on the northern elevation of Warehouse Unit 1 as circled in red below:

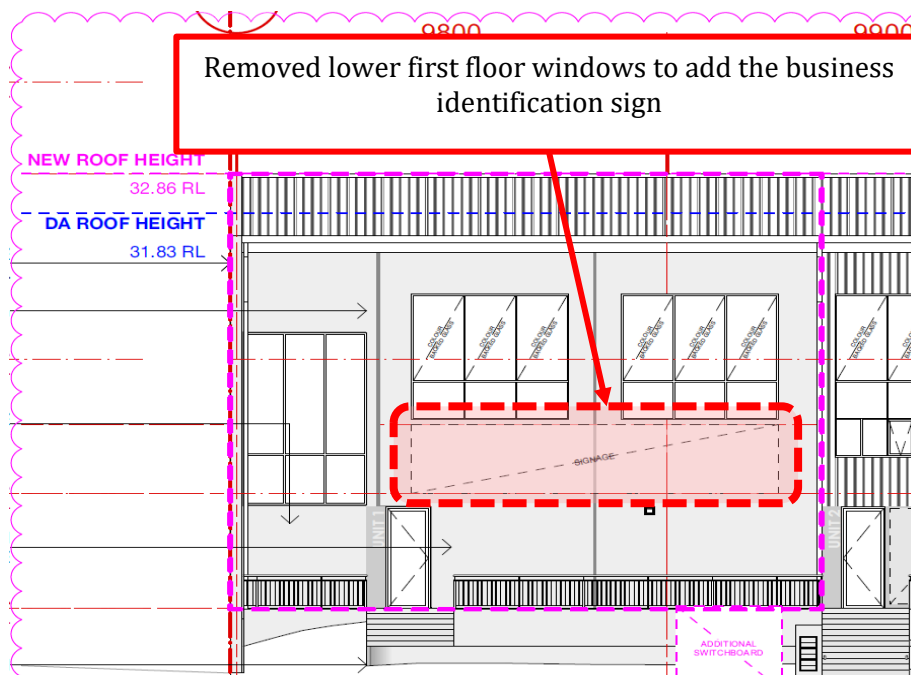


Figure 4: Extract of Modified North Elevation, Units 1-6 (Prepared by Architects Becerra)

When considering Section 3.1(1)(a) of the SEPP, the following comments are made:

The sign is compatible with the visual character of the area which feature a mix of business signs located along the primary frontage or front fencing of industrial buildings along Bryant Street. The sign location also accommodates a business sign that will effectively communicate the future use of Warehouse Unit 1 for pedestrians and vehicles along Bryant Street. The sign is to be a fixed precast wall sign consistent with signage originally approved for other Warehouse Units.

In accordance with Schedule 5 of the SEPP, the following comments are made:

Character of the area

- The proposal is consistent with the existing character of industrial and commercial buildings along Bryant Street. In particular, the street features business identification signs that vary in size, colours and placement.
- The proposed sign is consistent with the theme of individual units having their own business sign presenting to the street.

Special Areas

- The subject site is not located within a heritage conservation area in the LEP, commercial centre, strategic centre or key development site under the Canterbury Bankstown Development Control Plan (CBDPC) 2023.

Views and Vistas

- The site is not located in proximity to any significant views or vistas.
- The sign is proposed on the north side of Unit 1 and does not protrude above the building and will not dominate the skyline.
- The sign will not obstruct other businesses on the site or neighbouring businesses from providing signage in view from Bryant Street.

Streetscape, Setting or Landscape

- The scale of the sign is appropriate at 1.8m height and 8.54m width
- The sign will contribute to visual interest at the site through variation of colours to the approved Warehouse Units.
- The sign will have minimal clutter presenting to Bryant Street.
- The sign will not protrude above the building.
- No changes to the landscaping are required for the proposed sign.

Site and Building

- The scale and siting of the proposed sign is compatible with the scale of the approved industrial Warehouse Units. The sign will not dominate the frontage of the building or dominate the presentation of unit 1.
- The sign is located to respect the north facing windows as important features of the original approval to provide natural lighting to Unit 1.

Associated devices and logos with advertisements and advertising structures

- So safety devices, or platforms are proposed for the signage.
- The proposed signage will allow for a clear business identification sign for Unit 1. A specific use or business on the unit is not proposed with this modification.

Illumination

- No Illumination is proposed for the additional wall sign.

Safety

- The location and scale of the sign will not obstruct motorist views of Byrant Street. The sign does not employ distractive tactics to distract motorists. The sign will not reduce the safety of any public road.

As detailed above, the proposed business identification sign Warehouse Unit 1 is consistent with the relevant provisions of the State Environmental Planning Policy (Industry and Employment) 2021.

CANTERBURY-BANKSTOWN LOCAL ENVIRONMENTAL PLAN 2023

Part 2 Land Use Table

At the time the application was approved, the subject site was zoned IN2 Light Industrial and assessed under the Bankstown Local Environmental Plan 2015 (BLEP15). The BLEP15 has since been repealed and replaced with the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP23). The CBLEP23 has retained the site zoning as IN2 Light Industrial.

The objectives of the IN2 Light Industrial zone will continue to be satisfied as the application will continue to provide for a 'Warehouse or distribution centre'.

The modifications proposed by this application continue to meet the objectives of the IN2 Light Industrial zone. These objectives are as follows:

- *"To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To promote a high standard of urban design and local amenity."*

The following comments are offered in response to the above:

- The proposed modifications continue to provide for a light industrial, warehouse and related land uses.
- The proposed modifications continue to support employment opportunities and the viability of centres.

- The modifications retain the acoustic wall as constructed under approval DA-1009/2019 to retain the amenity of western adjoining residents. The additional floor area is provided to Warehouse Unit 1, located on the northeast side of the site away from residential land uses.
- No other land uses are proposed by the modification.
- The modification provides a larger area for Unit 1, thereby enhancing the variety of unit size and variety of industrial uses the site can accommodate.
- The proposed modification is substantially the same as the approved development with respect to design and locality amenity. It is noted that at the time of approval, design excellence was not a relevant consideration.

The site is located within the Canterbury Bankstown LGA (former Bankstown) and the provisions of the CBLEP 2023 are applicable as provided below:

PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
Zoning	<ul style="list-style-type: none"> • IN2 Light Industrial 	<ul style="list-style-type: none"> • As approved. The proposal as modified continues to be 'Warehouse or distribution centres' use.
Cl 2.7 Demolition	<ul style="list-style-type: none"> • Demolition of a building may be carried out with consent 	<ul style="list-style-type: none"> • As approved. No further demolition is proposed with this modification.
Cl 4.1 Minimum Lot size	<ul style="list-style-type: none"> • 1000m² 	<ul style="list-style-type: none"> • No subdivision proposed.
Cl. 4.3 Height of Buildings	<ul style="list-style-type: none"> • N/A 	N/A
Cl 4.4 Floor Space Ratio	<ul style="list-style-type: none"> • 1:1 	<ul style="list-style-type: none"> • Complies. • Site area: 13,200m² (1.32ha) GFA proposed: 9,380m² FSR: 0.71:1
Cl 5.10 Heritage Conservation	<ul style="list-style-type: none"> • N/A, the site is not a heritage item or located within an HCA 	<ul style="list-style-type: none"> • N/A
Cl 5.21 Flood Planning	<ul style="list-style-type: none"> • Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: <ul style="list-style-type: none"> (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing 	<ul style="list-style-type: none"> • Complies, The modification does not alter the stormwater plans approved by the original approval or the amended stormwater plans as required under condition 2.12 of DA-723/2021 and satisfied prior to CC.

PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
	<p><i>evacuation routes for the surrounding area in the event of a flood, and</i></p> <p><i>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</i></p> <p><i>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</i></p>	
<p>Cl 6.1 Acid Sulfate Soils</p>	<ul style="list-style-type: none"> • Class 5 	<ul style="list-style-type: none"> • Complies & as approved. • The site is not adjoining any other acid sulfate class and the modification will not lower the watertable below 1m AHD.
<p>Cl 6.2 Earthworks</p>	<ul style="list-style-type: none"> • Development consent is required for earthworks. 	<ul style="list-style-type: none"> • N/A. • The proposed modifications will not alter the approved extent of earthworks on site.
<p>Cl 6.3 Stormwater management and water sensitive urban design</p>	<ul style="list-style-type: none"> • Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied that the development – <ul style="list-style-type: none"> <i>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</i> <i>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</i> <i>(c) avoids significant adverse impacts of stormwater runoff on the land on which the development is carried out, adjoining properties and infrastructure, native bushland and receiving waters, or if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</i> <i>(d) includes riparian, stormwater and flooding measures, and</i> <i>(e) is designed to incorporate the following water sensitive urban design principles</i> 	<ul style="list-style-type: none"> • Complies • The modification does not propose alterations that are not otherwise generally in accordance with the approved stormwater plans (can be updated at CC stage).

PLANNING GUIDELINE	DEVELOPMENT STANDARD/CONTROL	COMPLY
Cl 6.4 Biodiversity	<p>The objective of this clause is to maintain terrestrial and aquatic biodiversity by:</p> <ul style="list-style-type: none"> • <i>protecting native fauna and flora, and</i> • <i>protecting the ecological processes necessary for their continued existence, and</i> • <i>encouraging the conservation and recovery of native fauna and flora and their habitats.</i> 	<ul style="list-style-type: none"> • N/A. • The subject site has not been identified as biodiversity mapped land.
Cl 6.9 Essential Services	<ul style="list-style-type: none"> • Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required— <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access. 	<ul style="list-style-type: none"> • Complies. The modification includes relocation of bin storage, with the substations shown on the site and individual electrical and fire safety services per Unit. Vehicle access (i.e. driveways) is not altered in this modification.
Cl 6.15 Design Excellence	<ul style="list-style-type: none"> • (2) This clause applies to the erection of a new building for the following purposes— <i>warehouse or distribution centres, if the new building has a gross floor area of 5,000m² or more used for a warehouse or distribution centre,</i> 	<ul style="list-style-type: none"> • At the time the application was approved, design excellence was not a consideration for the development application. The proposed alterations and additions under Section 4.55 do not seek a new building, thus it is considered that the clause does not necessarily apply in this instance. The proposed alterations and additions are consistent with the approved built form and will not derogate from the streetscape presentation of the warehouse development.

(iii) any development control plan, and

CANTERBURY – BANKSTOWN DEVELOPMENT CONTROL PLAN 2023

The original approval of DA-723/2021 was assessed under the controls of the previous Bankstown Development Control Plan (BDCP) 2015 prior to the Canterbury Bankstown Development Control Plan (CBDCP) commencing on 23 June 2023. Therefore the table below lists the applicable controls from the previous DCP to which the DA-723/2021 was originally approved under, and the applicable controls under the now enforced CBDCP 2023 below.

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
CBDP Chapter 9.1 – Section 2 – Building Envelope and Landscape			
Site Coverage	Part B3, Section 2 <ul style="list-style-type: none"> 60% of the site area if two or more businesses are to occupy the allotment 	Chapter 9.1 <ul style="list-style-type: none"> Sum of the total area of buildings on the ground floor must not exceed 70% 	<ul style="list-style-type: none"> Complies, Proposed ground floor site coverage 5,414m² (41.01%)
Street Setback	Part B3, section 2 <ul style="list-style-type: none"> Front/primary setback 10m where allotments do not adjoin a classified road 	Chapter 9.1 <ul style="list-style-type: none"> Primary Street frontage 10m for former Bankstown land that does not adjoin a state or regional road. 	<ul style="list-style-type: none"> Complies, No change to the approved front setbacks
Setbacks to side and rear boundaries	2.5 Council may require minimum setbacks to the side and rear boundaries of an allotment: <ol style="list-style-type: none"> To maintain reasonable solar access or visual privacy to neighbouring dwellings; or To avoid an easement or the dripline of a tree on an allotment or adjoining allotment; or To comply with any multi-level risk assessment undertaken for a development that ascertains the need for an appropriate setback or buffer zone between the development and any adjoining or neighbouring land within a residential zone. 2.6 The design of buildings must ensure that: <ol style="list-style-type: none"> At least one living area of a dwelling on an adjoining allotment must receive a minimum 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. A minimum 50% of the required private open space for a dwelling that adjoins a development receives at 	2.5 Council may require minimum setbacks to the side and rear boundaries of an allotment: <ol style="list-style-type: none"> To maintain reasonable solar access or visual privacy to neighbouring dwellings; or To avoid an easement or the dripline of a tree on an allotment or adjoining allotment; or To comply with any multi-level risk assessment undertaken for a development that ascertains the need for an appropriate setback or buffer zone between the development and any adjoining or neighbouring land within a residential zone. 2.6 The design of buildings must ensure that: <ol style="list-style-type: none"> At least one living area of a dwelling on an adjoining allotment must receive a minimum 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. A minimum 50% of the required private open space for a dwelling that adjoins a development receives at 	<ul style="list-style-type: none"> Complies, The modification retains the 5m side setback as per the original approval. <p>The additions to Unit 1 are located on the western side of the site and match the approved zero setback on the eastern side boundary.</p> <p>The modifications on the eastern side of the site will not affect solar access of residents to the west of the site.</p>

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.</p>	<p>least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space.</p>	
<p>Setbacks to Riparian Corridors</p>	<p>2.7 Development must achieve a minimum setback of 15 metres from a riparian corridor (measured from the top of the watercourse banks) and must revegetate the riparian corridor to Council's satisfaction.</p>	<p>2.8 Development must achieve a minimum setback of 15 metres from a riparian corridor (measured from the top of the watercourse banks) and must revegetate the riparian corridor to Council's satisfaction.</p>	<ul style="list-style-type: none"> • N/A, site is not in proximity to a riparian corridor
<p>Development adjacent to residential zones</p>	<p>2.11 In determining a development application that relates to land 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 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,</p>	<p>2.7 In determining a development application that relates to land 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 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,</p>	<ul style="list-style-type: none"> • Complies, • The modification does not propose changes to the buildings on the western side of the site (closest to R2 land). • Storage of goods is to remain in the warehouse and mezzanine of each unit. • The additions to Unit 1 are on the eastern side of the site and will not change shadows to residents west of the site. • The Acoustic wall approved by DA-1002/2019 is constructed and unaltered by this modification. • Acoustic and visual privacy to the western residents is unaltered from the original approval.

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>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 private yard space or windows in residences.</p>	<p>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 private yard space or windows in residences.</p>	<ul style="list-style-type: none"> No additional windows or balconies are proposed with this modification.
Open Space	<p>Section 4.2 Development must provide a landscaped area along the primary and secondary street frontage of a site based on lot size. For sites over 4,000m² that doesn't adjoin a state or regional road needs a minimum 10m.</p> <p>4.4 Where development provides a landscaped area, the development should also provide employee amenities that utilises or has access to the landscaped area. The landscaped area should include a combination of grass, plantings, pavement, shade, and seating to allow employees to engage in a pleasant working environment.</p> <p>4.5 Development must:</p> <p>(a). retain and protect any existing trees identified by Council on an allotment and adjoining allotments; and</p> <p>(b). must not change the natural ground level within 3 metres of the base of the trunk or within the dripline, whichever is the greatest.</p>	<p>Chapter 9.1, section 2.10 requires the same 10m landscaping in the front setback for land over 4,000m² that does not adjoin a state or regional road.</p> <p>2.15 Development must provide an outdoor employee amenity area with a minimum area of 25m². This area should include a combination of grass, plantings, pavement, shade, and seating to allow employees to engage in a pleasant working environment.</p>	<ul style="list-style-type: none"> Complies, Minor changes to the frontage include an additional substation and switchboard and NBN services. No change to the access ramps is proposed. The modification retains the approved 57m² common landscaped area with seating on the southwest side of the site (south of Warehouse Unit 36).
Tree Planting	<p>4.6 Development with a primary road frontage of 5 metres or more must provide at least 1 street tree per 5 metres of primary road frontage. Council may vary this requirement if a street tree already exists in good condition or site constraints limit their inclusion.</p> <p>4.7 Development must plant trees in the landscaped area at a minimum rate of 1 canopy tree</p>	<p>2.12 Development must plant at least one street tree at 5m intervals along the length of the primary and secondary street frontage. Council may vary this requirement in response to proposed tree species, site constraints limit their inclusion, or a street tree already exists in good condition.</p> <p>2.13 Development must plant trees in the landscaped area at a minimum rate of one canopy per</p>	<ul style="list-style-type: none"> Complies, The modification does not propose changes to the approved tree planting along the primary frontage. Tree planting rate is unchanged from the approved landscape

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>per 30m² of the landscaped area. The canopy tree must be capable of achieving a mature height greater than 5 metres.</p> <p>4.8 Where development proposes an outdoor car park with 20 or more car parking spaces, the car park design must include at least 1 tree per 5 car parking spaces to the following specifications:</p> <p>(a) a tree must be a single trunk species to allow a minimum visibility clearance of 1.5 metres measured above natural ground level; and</p> <p>(b) a tree must be planted in an island bed that is a minimum 2 metres in width and 4 metres in length.</p>	<p>30m² of the landscaped area. The canopy tree must be capable of achieving a mature height greater than 5m.</p> <p>2.14 Where development proposes an outdoor car park with 20 or more car parking spaces, the car park design must include at least one tree per 5 car parking spaces to the following specifications:</p> <p>(a) a tree must be a single trunk species to allow a minimum visibility clearance of 1.5 metres measured above natural ground level; and</p> <p>(b) a tree must be planted in an island bed that is a minimum 2 metres in width and 4 metres in length.</p>	<p>plans.</p> <ul style="list-style-type: none"> No change to car park landscaping is proposed.
BCDCP 2023 Part 9.1 – Section 3 Building Design			
Façade Design	<p>3.1 Development must articulate the facades to achieve a unique and contemporary architectural appearance that:</p> <p>(a) unites the facades with the whole building form;</p> <p>(b) composes the facades with an appropriate scale and proportion that responds to the use of the building and the desired contextual character;</p> <p>(c) combines high quality materials and finishes;</p> <p>(d) considers the architectural elements shown in the illustration to this clause; and</p> <p>(e) considers any other architectural elements to Council's satisfaction.</p> <p>3.2 Development may have predominantly glazed facades provided it does not cause significant glare nuisance.</p>	<p>3.1 Development must articulate the facades to achieve a unique and contemporary architectural appearance that:</p> <p>(a) unites the facades with the whole building form;</p> <p>(b) composes the facades with an appropriate scale and proportion that responds to the use of the building and the desired contextual character;</p> <p>(c) combines high quality materials and finishes;</p> <p>(d) considers the architectural elements shown in the illustration to this clause; and</p> <p>(e) considers any other architectural elements to Council's satisfaction.</p> <p>3.2 Development may have predominantly glazed facades provided it does not cause significant glare nuisance.</p>	<ul style="list-style-type: none"> Complies, The modification retains the approved contemporary façade of attached industrial units like that of terraces. The modification retains the approved setback and building articulation. The Façade retains the approved glazing and landscaping that prevents glare. Minor changes including an increase in wall height for the access ramp balustrade in front of Units 4 to 6, and a balustrade in front of units 7 and 8. No change to approved window glazing is proposed.

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>3.3 Industrial retail outlets must incorporate shopfront style windows with clear glazing so that people can see into the premises and vice versa. Council discourages the use of obscure or opaque glass, or other types of screening.</p> <p>3.4 Where development proposes a portal frame or similar construction, Council does not allow the “stepping” of the parapet to follow the line of the portal frame.</p>	<p>3.3 Industrial retail outlets must incorporate shopfront style windows with clear glazing so that people can see into the premises and vice versa. Council discourages the use of obscure or opaque glass, or other types of screening.</p> <p>3.4 Where development proposes a portal frame or similar construction, Council does not allow the “stepping” of the parapet to follow the line of the portal frame.</p>	<ul style="list-style-type: none"> No change of use of the Warehouse Units is proposed in this modification. No portal Frame proposed with this modification.
Façade design (corner Site)	3.5 The street facade of development on a corner allotment must incorporate architectural corner features to add visual interest to the streetscape.	3.5 The street facade of development on a corner allotment must incorporate architectural corner features to add visual interest to the streetscape.	<ul style="list-style-type: none"> N/A
Façade design (materials)	<p>3.6 Development must use:</p> <p>(a) quality materials such as brick, glass, and steel to construct the facades to a development (Council does not permit the use of standard concrete block); and</p> <p>(b) masonry materials to construct a factory unit within a building, and all internal dividing walls separating the factory units.</p> <p>Despite this clause, Council may consider a small portion of the street façade to comprise metal sheet or other low maintenance material provided it complies with the Building Code of Australia</p>	<p>3.6 Development must use:</p> <p>(a) quality materials such as brick, glass, and steel to construct the facades to a development (Council does not permit the use of standard concrete block); and</p> <p>(b) masonry materials to construct a factory unit within a building, and all internal dividing walls separating the factory units.</p> <p>Despite this clause, Council may consider a small portion of the street façade to comprise metal sheet or other low maintenance material provided it complies with the Building Code of Australia</p>	<ul style="list-style-type: none"> Complies, The modification does not propose any changes to the approved materials and finishes.
Roof Design	<p>3.10 Development must incorporate an innovative roof design that:</p> <p>(a) Achieves a unique and contemporary architectural appearance; and</p> <p>(b) Combines high quality materials and finishes.</p>	<p>3.7 Development must incorporate an innovative roof design that:</p> <p>(c) Achieves a unique and contemporary architectural appearance; and</p> <p>(d) Combines high quality materials and finishes.</p>	<ul style="list-style-type: none"> Complies, The roof height increases from 31.83m to 32.98m AHD will not protrude above the approved roof height of other buildings and will be constructed with the same approved materials and finish.
Safety and security	<p>3.11 The front door to buildings should face the street.</p> <p>3.12 The administration offices or industrial retail outlets must locate at the front of buildings.</p>	<p>3.8 The front door to buildings should face the street.</p> <p>3.9 The administration offices or industrial retail outlets must locate at the front of buildings.</p>	<ul style="list-style-type: none"> Complies, The modifications retain the approved pedestrian and vehicle entry points

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>3.13 Windows on the upper floors of a building must, where possible, overlook the street.</p> <p>3.14 Access to loading docks or other restricted areas in buildings must only be available to tenants via a large security door with an intercom, code, or lock system.</p> <p>3.15 Unless impractical, access to outdoor car parks must be closed to the public outside of business hours via a lockable gate.</p> <p>3.16 Development must provide lighting to the external entry paths, common lobbies, driveways and car parks using vandal resistant, high mounted light fixtures.</p> <p>3.17 Where an allotment shares a boundary with a railway corridor or an open stormwater drain, any building, solid fence, or car park on the allotment should, wherever practical, be setback a minimum 1.5 metres from that boundary. The setback distance must be:</p> <p>(a) treated with hedging or climbing vines to screen the building, solid fence, or car park when viewed 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 300mm pot size; 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 allotment must be fenced along the boundary using a minimum 2 metre high chain-wire fence; and</p> <p>(e) the fence provides an appropriate access point to maintain the landscaping within the setback area; and</p> <p>(f) where a car park adjoins the boundary, hedging or climbing vines must also be</p>	<p>3.10 Windows on the upper floors of a building must, where possible, overlook the street.</p> <p>3.11 Access to loading docks or other restricted areas in buildings must only be available to tenants via a large security door with an intercom, code or lock system.</p> <p>3.12 Unless impractical, access to outdoor car parks must be closed to the public outside of business hours via a lockable gate.</p> <p>3.13 Development must provide lighting to the external entry paths, common lobbies, driveways and car parks using vandal resistant, high mounted light fixtures.</p> <p>3.14 Where an allotment shares a boundary with a railway corridor or an open stormwater drain, any building, solid fence, or car park on the allotment should, wherever practical, be setback a minimum 1.5 metres from that boundary. The setback distance must be:</p> <p>(a) treated with hedging or climbing vines to screen the building, solid fence, or car park when viewed 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 300mm pot size; 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 allotment must be fenced along the boundary using a minimum 2 metre high chain-wire fence; and</p> <p>(e) the fence provides an appropriate access point to maintain the landscaping within the setback area; and</p> <p>(f) where a car park adjoins the boundary, hedging or climbing vines must also be</p>	<p>from Byrant Street. The only window change proposed is a minor reduction in windows on the north side of Unit 1 for a wall sign. Passive surveillance is maintained from the mezzanine windows of Unit 1 facing Byrant Street.</p> <p>The modification retains eight (8) Warehouse Units with pedestrian entries available from a path up from Byrant Street (reduced from 9 due to Units 1 and 2 merging). No change to the loading dock access or lighting is proposed in this modification.</p>

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>planted along the sides of any building or solid fence on the allotment 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>	<p>planted along the sides of any building or solid fence on the allotment 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>	
General	<p>3.18 Council must take into consideration the following matters for development in the industrial zones:</p> <p>(a) whether the proposed development will provide adequate off-street parking, relative to the demand for parking likely to be generated;</p> <p>(b) whether the site of the proposed development will be suitably landscaped, particularly between any buildings and the street alignment;</p> <p>(c) whether the proposed development will contribute to the maintenance or improvement of the character and appearance of the locality;</p> <p>(d) whether access to the proposed development will be available by means other than a residential street but, if no other means of practical access is available, the consent authority must have regard to a written statement that:</p> <p>(i) illustrates that no alternative access is available otherwise than by means of a residential street; and</p> <p>(ii) demonstrates that consideration has been given to the effect of traffic generated from the site and the likely impact on surrounding residential areas; and</p> <p>(iii) identifies appropriate</p>	<p>3.15 Council must take into consideration the following matters for development in the industrial zones:</p> <p>(a) whether the proposed development will provide adequate off-street parking, relative to the demand for parking likely to be generated;</p> <p>(b) whether the site of the proposed development will be suitably landscaped, particularly between any buildings and the street alignment;</p> <p>(c) whether the proposed development will contribute to the maintenance or improvement of the character and appearance of the locality;</p> <p>(d) whether access to the proposed development will be available by means other than a residential street but, if no other means of practical access is available, the consent authority must have regard to a written statement that:</p> <p>(i) illustrates that no alternative access is available otherwise than by means of a residential street; and</p> <p>(ii) demonstrates that</p>	<ul style="list-style-type: none"> • Complies, • The proposed modification relocates parking and provides two (2) additional spaces to a total 96. The modification retains the approved accessible spaces and bicycle parking on site. • The landscaping in the front setback is consistent with the original approval. Only minor changes made to add services. • The modified warehouse buildings retain a consistent contribution to the industrial character of Bryant Street with the additional sign also being consistent with wall signs fixed on industrial buildings in the locality. • No change to the approved pedestrian and vehicle access. • The modification does not alter the landscaping amenity for workers/staff on the site.

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>traffic management schemes which would mitigate potential impacts of the traffic generated from the development on any residential environment;</p> <p>(e) whether goods, plant, equipment and other material used in carrying out the proposed development will be suitably stored or screened;</p> <p>(f) whether the proposed development will detract from the amenity of any residential area in the vicinity; and</p> <p>(g) whether the proposed development adopts energy efficiency and resource conservation measures related to its design, construction and operation.</p>	<p>consideration has been given to the effect of traffic generated from the site and the likely impact on surrounding residential areas; and</p> <p>(iii) identifies appropriate traffic management schemes which would mitigate potential impacts of the traffic generated from the development on any residential environment;</p> <p>(e) whether goods, plant, equipment and other material used in carrying out the proposed development will be suitably stored or screened;</p> <p>(f) whether the proposed development will detract from the amenity of any residential area in the vicinity; and</p> <p>(g) whether the proposed development adopts energy efficiency and resource conservation measures related to its design, construction and operation.</p>	<ul style="list-style-type: none"> The modifications continue to allow each unit to have goods and equipment screened. The modification does not alter acoustic wall and ensure adjoining residential amenity is retained. <p>For further information, refer to the Traffic and Parking Assessment Report prepared by McLaren Traffic Engineering and Road Safety Consultants submitted under separate cover.</p>
<p>Vehicle body repair workshop</p>	<p>3.19 Council must not grant consent to development for the purpose of vehicle body repair workshops if the land adjoins land within a residential zone, unless appropriate arrangements are made to store all vehicles awaiting or undergoing repair, awaiting collection, or otherwise involved with the development on the site of the proposed development, and they will be stored either:</p> <p>(a) Within a building; or</p> <p>(b) Within a suitably screened area.</p>	<p>3.16 Council must not grant consent to development for the purpose of vehicle body repair workshops if the land adjoins land within a residential zone, unless appropriate arrangements are made to store all vehicles awaiting or undergoing repair, awaiting collection, or otherwise involved with the development on the site of the proposed development, and they will be stored either:</p> <p>(a) Within a building; or</p> <p>Within a suitably screened area.</p>	<ul style="list-style-type: none"> N/A, No vehicle body repair workshop approved or proposed.

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
CBDP 2023 Part 9.1 – Section 4 Environmental Impact			
Acoustic Privacy	4.1 Development must: (a) Consider the Industrial Noise Policy and the acoustic amenity of adjoining residential zoned land; and (b) May require adequate soundproofing to any machinery or activity that is considered to create a noise nuisance.	4.1 Development must: (c) Consider the Industrial Noise Policy and the acoustic amenity of adjoining residential zoned land; and (d) May require adequate soundproofing to any machinery or activity that is considered to create a noise nuisance.	<ul style="list-style-type: none"> Complies, The modification does not propose any change to the acoustic conditions of consent, or the acoustic wall approved by DA.
Pollution Control	4.2 Development must adequately control any fumes, odour emissions, and potential water pollutants in accordance with the requirements of the relevant public authority.	4.2 Development must adequately control any fumes, odour emissions, and potential water pollutants in accordance with the requirements of the relevant public authority.	<ul style="list-style-type: none"> Complies, No change to the proposed warehouse/distribution premises proposed. No change of use for any of the units is proposed that would result in fumes, odours or water pollutants.
CBDP 2023 Part 9.1 – Section 5 Site Facilities			
Storage areas	5.9 The storage and use of hazardous materials must comply with the requirements of WorkCover NSW and other relevant public Authorities. 5.10 The storage and use of dangerous goods must comply with the <i>Dangerous Goods (Road and Rail Transport) Act 2008</i> and its regulations, and any other requirements of WorkCover NSW	5.1 The storage and use of hazardous materials must comply with the requirements of WorkCover NSW and other relevant public Authorities. 5.2 The storage and use of dangerous goods must comply with the <i>Dangerous Goods (Road and Rail Transport) Act 2008</i> and its regulations, and any other requirements of WorkCover NSW	<ul style="list-style-type: none"> Complies, No change to the use of the Warehouse Units is proposed to include storage of dangerous goods.
Building design (utilities and building services)	<ul style="list-style-type: none"> Extensions visible from the street must be consistent with the overall massing and form of the property 	5.3 The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans 5.4 Utilities and building services are to be integrated into the building design and concealed from public view 5.5 External lighting to industrial development must give consideration to the impact of glare on the amenity of adjoining residents	<ul style="list-style-type: none"> Complies on merit, Amended plans shows services including the switchboard, meters, Electrical and Fire hose reels. A second substation is located within the front setback however, this is located next to a substation originally approved in DA-723/2021. <p>No change to external lighting is proposed.</p>

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
		<p>5.6 Council may require development to include public domain improvements to an adjacent footpath in accordance with a design approved by Council's Landscape Architect</p>	<p>No change to the approved landscaping and footpaths in the front setback is proposed.</p>
<p>Building Design (substations)</p>	<ul style="list-style-type: none"> N/A, Substation controls previously applied for commercial development in Part B2, not industrial development under part B3 	<p>5.7 The location and design of substations must be shown on the plans.</p> <p>5.8 Substations should locate underground. Where not possible, substations are to be integrated into the building design and concealed from public view.</p> <p>5.9 Substations must not locate forward of the front building line.</p>	<ul style="list-style-type: none"> Complies on merit, At the time of the original approval, controls related to the location of substations did not apply to industrial development. The Location of the second substation is consistent with the originally approved substation location.
<p>Front fences</p>	<p>5.1 The maximum fence height for front fences is 1.8 metres.</p> <p>5.2 The external appearance of front fences along the front boundary of allotments must ensure:</p> <ul style="list-style-type: none"> (a) the section of the front fence that comprises solid construction (not including pillars) does not exceed a fence height of 1 metre above ground level (existing); and (b) the remaining height of the front fence comprises open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design. <p>Despite this clause, the solid construction of a fence behind the front building line of dwelling houses and dual occupancies on corner allotments may achieve a fence height up to 1.8 metres.</p> <p>5.3 Council does not allow the following types of front fences:</p>	<p>5.11 The maximum fence height for front fences is 1.8 metres.</p> <p>5.12 The external appearance of front fences along the front boundary of allotments must ensure:</p> <ul style="list-style-type: none"> (a) the section of the front fence that comprises solid construction (not including pillars) does not exceed a fence height of 1 metre above ground level (existing); and (b) the remaining height of the front fence comprises open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design. <p>Despite this clause, the solid construction of a fence behind the front building line of dwelling houses and dual occupancies on corner allotments may achieve a fence height up to 1.8 metres.</p> <p>5.13 Council does not allow the following types of front fences:</p>	<ul style="list-style-type: none"> Complies, no fencing was approved in the original application or proposed in the modification. The original approval incorporates a security gate to the driveway to restrict unauthorised access or access after-hours.

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	(a) chain wire, metal sheeting, brushwood, and electric fences; and (b) noise attenuation walls.	(a) chain wire, metal sheeting, brushwood, and electric fences; and (b) noise attenuation walls	
Chapter 3.1, Section 3.2 Parking			
Off Street Parking Rates	Development must calculate the amount of parking required under the schedule of Off Street Parking requirements. For industries and light industries, the rate is 1 space per 100m ² GFA If office component is less than 20% of the total GFA, then the rate of parking for office area is also 1 space per 100m ² .	For industries and light industries, the rate is 1 space per 100m ² GFA If office component is less than 20% of the total GFA, then the rate of parking for office area is also 1 space per 100m ² .	<ul style="list-style-type: none"> Complies, Proposed GFA of 9,380m²/100 = a minimum of 93.8 or 94 spaces. The modification proposed an increase from 94 spaces to 96.
Accessible Parking	At least 1 space per 100 car spaces	<ul style="list-style-type: none"> 1 Accessible space per 50 Parking spaces for staff 1 Accessible space for visitors per 50 parking spaces. 	<ul style="list-style-type: none"> Complies, The modification retains the two accessible spaces from the approval.
Bicycle Parkin	N/A, no bicycle rates applied under previous DCP	<ul style="list-style-type: none"> 1 space per 20 staff 	<ul style="list-style-type: none"> Complies, The modification does not change the use, or propose staff, and retains the approved ten bicycle spaces.
Chapter 3, Section 3.6 Signs			
Signs in Zones B5, B6, IN1 and IN2	Formerly In Part B, Section 5 5.4 Development is limited to one pylon sign for each allotment boundary that adjoins a classified road, and must ensure: (a) the sign is predominantly rectangular in shape with a vertical proportion; (b) the envelope of the sign is 4 metres or 9 metres in height (to encourage two consistent heights rather than a variety of heights) and a maximum 2 metres in width; and (c) the sign only identifies the businesses on the allotment and the	2.6 Council may allow development to have a pylon sign provided: (a) it is limited to one pylon sign for each site boundary that adjoins a classified road; (b) the sign is predominantly rectangular in shape with a vertical proportion; (c) the envelope of the sign is 4m or 9m in height (to encourage two consistent heights rather than a variety of heights) and a maximum 2m in width. (d) the sign only identifies the businesses on the site and the street	<ul style="list-style-type: none"> Complies, No change to Pylon signage proposed.

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>street number to assist customers and visitors.</p> <p>5.5 In addition to clause 5.4, Council may allow development to have other business or building identification signs provided:</p> <ul style="list-style-type: none"> (a) the total permissible area of all signs must not exceed 1.1 square metres per 3 metres of street frontage; and (b) signs will not be permitted nearer to the street alignment than one third of the prescribed building line, and where permitted between the building line and the street must not exceed two thirds of what is normally permitted on or behind the building line; and (c) signs are suitably integrated with the architectural style of the building. 	<p>number to assist customers and visitors.</p> <p>2.6 Council may allow development to have other business or building identification signs provided:</p> <ul style="list-style-type: none"> (a) The total sign area on sites with a single street frontage does not exceed 1m² per 2m of the street frontage. (b) The total sign area on sites with more than one street frontage does not exceed 0.5m² per 2m of the street frontages. (c) Signs are suitably integrated with the architectural style of the building 	<ul style="list-style-type: none"> • The modification proposes one (1) wall sign on the north side of Unit 1 to be a business identification sign. • The sign proposed for the modification is indicative as no change of use for the Warehouse Units is proposed. • The sign is integrated into the façade of Unti 1, between the ground floor and first floor windows.
<p>Prohibited Signs</p>	<p>5.6 Council does not allow the following signs:</p> <ul style="list-style-type: none"> (a) flashing signs, flashing lights, signs which incorporate devices which change colour, a sign where movement can be recognised by a passing motorist; (b) signs extending over street boundaries, other than those permitted in conjunction with shops, or the like, where such buildings are erected on the street alignment; (c) any sign that would adversely affect existing traffic lights; (d) any sign that is not permanently fixed to the site; (e) any sign made of canvas, calico or the 	<p>2.8 Council prohibits the following signs:</p> <ul style="list-style-type: none"> (a) flashing signs, flashing lights, signs which incorporate devices which change colour, a sign where movement can be recognised by a passing motorist. (b) signs that extend over street boundaries, other than those permitted in conjunction with shops, or the like, where such buildings are erected on the street alignment. (c) signs that would adversely affect existing traffic lights. (d) signs that are not permanently fixed to the site. (e) signs made of canvas, calico or the like. 	<ul style="list-style-type: none"> • Complies, • The sign does not include any illumination or flashing lights. • The sign proposed for Unit 1 does not extend over any street boundary. • The sign is not in proximity to any traffic lights. • The sign will be fixed on the north face of Unit 1. • Sign is to be painted precast metal signage consistent with

Control	Prior Bankstown DCP 2015	BCDCP 2023 Control	Compliance
	<p>like. Council may grant a limited approval for a maximum period of 1 month, provided the sign complies with relevant legislation;</p> <p>(f) any under awning sign in excess of 2.5 metres x 0.4 metre; and</p> <p>(g) signs at a lower level than 2.6 metres over the footway</p>		<p>signage approved for other warehouse Units on the site.</p> <ul style="list-style-type: none"> No under awning sign is proposed.
Design	<p>5.7 Business or building identification signs that are painted or attached to a building must not screen windows and other significant architectural features of the building.</p>	<p>2.9 Corporate colours, logos and other graphics must achieve a high degree of compatibility with the architecture, materials, finishes and colours of the building and streetscape.</p> <p>2.10 Building identification signs and business identification signs that are painted or attached to a building must not screen windows and other significant architectural features of the building.</p> <p>2.11 Signs are not to dominate in terms of scale, number, proportion and form or any other attributes.</p> <p>2.12 The amount of signs may be limited due to the cumulative impact on a locality or a building.</p> <p>2.13 The design and place of signs are not to adversely impact on the amenity of residential sites.</p> <p>2.14 Signs are to be designed for easy maintenance.</p> <p>2.15 Development must remove signs that are no longer necessary or unsightly to avoid clutter.</p> <p>2.16 Signs are not to include offensive or objectionable material in the content of an</p>	<ul style="list-style-type: none"> Complies, No change of use proposed with this modification. The modification proposes a minor reduction in windows to unit 1 for the sign. The north side of Unit 1 retains the ground floor and first floor/mezzanine windows. The additional sign does not dominate the streetscape presentation. The remaining units retain the approved number of signs. The wall sign is proposed on the north side of Unit 1 and will not affect adjoining amenity of residents to the west of the site. Sign location will allow access for maintenance from in front of Unit 1. The remaining sign at the front of Unit 1 is the Unit number. No logo, text or company name is

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		advertisement (such as discriminatory messages, promotion of unlawful or anti-social behaviour, encouraging excessive consumption of alcohol, pornography, or offensive language).	proposed for this modification.
Signs on Parked vehicles	<ul style="list-style-type: none"> N/A no parked vehicle sign control in prior DCP 	2.17 Signs on parked vehicles such as cars, trucks and trailers are prohibited where: <ul style="list-style-type: none"> (a) The vehicle is unregistered. (b) The primary purpose of the vehicle is for advertising purposes. 	<ul style="list-style-type: none"> Complies, No parked vehicle sign is proposed with the modification.

(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

Not applicable.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

There are no prescribed matters which affect the permissibility of this proposal.

(v) (Repealed).

(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

The additional area proposed to Unit 1 by merging Units 1 and 2 is proposed to provide a greater variety of warehouses (with respect to size) to the development as a whole, which will enhance the variety of industrial uses that can operate on the site.

In regards to the natural environment, the site has been used for industrial purposes prior to the original approval including various storage and manufacturing purposes. The modifications have been designed to predominantly increase GFA to the northeast portion of the approved building to add GFA to Warehouse Unit 1, which will not impact the amenity of residents to the west of the site. The northwestern side, as modified, will continue to be used as parking as per the original approval with only minor adjustments to the landscaping to provide additional parking.

In regards to the built environment, the key modification to the built form is proposed to Unit 1, being additional GFA connecting the building with Unit 11 and merging with Unit 2 to form a larger Warehouse Unit. Changes to the façade of the building have minimal impact on the streetscape with window removal for only one (1) wall sign proposed for Unit 1. The proposed modifications have been designed to protect and enhance the residential amenity of the adjoining R2 Low Density Residential zoned land, through retaining the approved building height and setbacks to the buildings on the western side of the site.

Having regard to the social and economic impacts of the proposed development, the modifications enhance the developments' ability to increase employment opportunities in the area. Merging of Warehouse Units 1 and 2 with additional GFA provides a larger Unit and adds to the variety of warehouse availability and layout to the development overall. This in turn enhances the variety of industrial uses that can be accommodated by the development as a whole.

In terms of impact to parking and traffic generated by the proposed modifications, a Traffic and Parking Impact Assessment Report has been prepared by McLaren Traffic Engineering and Road Safety Consultants dated 12 August 2024. The Traffic report found the additional GFA results in an additional two (2) spaces required on the site as provided on site. The traffic report finds the modifications will not result in additional traffic generated compared to the original approval and concludes with the following:

" Conclusion

*In view of the foregoing, the proposed alternations and additions to the approved industrial development at 17 Bryant Street, Padstow (as depicted in **Annexure A**) is fully supportable in terms of its traffic and parking impacts. The following outcomes of this traffic impact assessment are relevant to note:*

*a. The proposed alterations and additions do not demand additional car parking spaces. In any case, two (2) additional car parking spaces have been provided, resulting in a total of **96** car parking spaces within the proposed car park.*

b. No additional bicycle spaces are required as a result of the proposed alterations and additions to the approved development.

*c. The parking areas of the site have been assessed against the relevant sections of AS2890.1:2004, AS2890.2:2018 and AS2890.6:2022 and have been found to satisfy the objectives of each standard. Swept paths have been undertaken of any proposed modification to the warehouse units with results presented in **Annexure B**.*

d. The proposed alterations and additions to the approved industrial development does not generate any additional vehicle trips. "This level of traffic will have no adverse impact on any nearby intersections and can be readily accommodated within the existing road network with minimal impact in terms of traffic flow efficiency and road safety considerations".

For further information, refer to the Traffic and Parking and Assessment Report prepared by McLaren Traffic Engineering and Road Safety.

(c) the suitability of the site for development

The proposed modifications are in keeping with the use of the IN2 Light Industrial zoned site. The modifications have considered, and retain, the amenity of the adjoining residents, and it is demonstrated that no adverse overshadowing impact will be caused by the proposed development or adjustment to roof height. The subject site is therefore considered suitable for the proposed modifications.

(d) any submissions made in accordance with this Act or the regulations

Not relevant at this time.

(e) the public interest

The public interest would be served by approval of this modification application, as it will retain the amenity to adjoining residents and enhance the variety of industrial activities and employment opportunities that can be accommodated by the development as modified. The development as modified continues to be consistent with the objectives of the IN2 Light Industrial zone.

It is considered that the development is conducive to Council's policies and does not result in any unreasonable impacts. It is considered that the proposed development is acceptable and should be supported.

Pursuant to the provisions of Section 4.55(2) of the Environmental Planning Assessment Act, 1979, Council is requested to consider the proposed modifications to DA No. 723/2021.

Should you require any additional information please do not hesitate to contact me.

Kind regards,



Michael Stephen &
Town Planner
GAT & Associates
Plan 3440