

ITEM 5.3 Draft Consolidated Local Environmental Plan Update and Draft Development Control Plan Amendments

AUTHOR Planning

PURPOSE AND BACKGROUND

The purpose of this report is to provide Council an update on the Department of Planning and Environment's review of the Draft Consolidated Local Environmental Plan, and seek Council's approval to exhibit draft amendments to the Draft Consolidated Development Control Plan in response to this review.

ISSUE

In 2020, Council prepared the Draft Consolidated Local Environmental Plan (LEP). The Draft LEP is to be Council's principal planning document to regulate land use across the city. The Draft LEP aligns Council's policy positions and gives effect to the first stage of *Connective City 2036*, which is to integrate current land use strategies into Council's planning framework.

In 2021, Council prepared the Draft Consolidated Development Control Plan (DCP). The Draft DCP supports the Draft LEP by providing additional objectives and planning controls to enhance the function, design and amenity of development.

Since this time, the Department has reviewed the Draft LEP and identified certain issues that required clarification or additional information. To date, Council officers have provided the required information to address these matters.

The Department subsequently identified the Moomba to Sydney Pipeline as a new issue that required additional information. The pipeline crosses through the Canterbury-Bankstown Local Government Area along the East Hills Railway Line. It operates at high pressure to transport ethane gas from Moomba, South Australia to industrial facilities in Port Botany.

The Department required a Land Use Safety Study to consider the risk of a potential pipeline rupture and to adequately mitigate the impacts within the East Hills, Panania, Revesby and Padstow centres. While State legislation requires this consideration at the development application stage, the Department is proposing to manage this risk earlier in the planning process to inform the planning controls.

Council commissioned an independent specialist to prepare the study in accordance with the Department's risk criterion and hazard analysis guidelines. The Department has reviewed the study and is proposing to implement the recommendations as follows:

- Include a new clause and Hazard Area Map in the Draft LEP to identify the properties adjacent to the pipeline where sensitive uses, such as aged care, child care centres and hospitals, are to be prohibited.

- Include a new clause and Hazard Area Map in the Draft LEP to identify the properties adjacent to the pipeline where residential development must incorporate measures to adequately mitigate the impacts of a potential pipeline rupture. The study found residential intensification may be permitted provided buildings incorporate fire-resisting construction that would give occupants reasonable time to evacuate the buildings.

Council is required to amend the Draft DCP to implement the more detailed recommendations of the Land Use Safety Study, in relation to the design, construction and evacuation requirements for residential development.

To address this issue, the next step would be to exhibit the Draft DCP amendments arising from the Land Use Safety Study, together with administrative amendments identified through the Department's review of the Draft LEP and other changes to State policy.

RECOMMENDATION That -

1. Council exhibit the draft amendments to the Draft Canterbury Bankstown Consolidated Development Control Plan as provided in Attachment A.
2. This matter be reported to Council following the exhibition period.

ATTACHMENTS [Click here for attachment](#)

- A. Draft Development Control Plan Amendments

POLICY IMPACT

Update on the Draft LEP

In 2020, Council prepared the Draft LEP as part of the Department's Accelerated Local Environmental Plan Program.

The Draft LEP is to be Council's principal planning document to regulate land use across the Canterbury-Bankstown Local Government Area. The Draft LEP provides aims and objectives and sets land use zones and planning controls such as lot sizes, building heights and floor space ratios. The Draft LEP also proposes to align Council's policy positions and give effect to the first stage of *Connective City 2036*, which is to integrate current land use strategies into Council's planning framework.

The following actions have taken place:

Date	Action
2020	The Department issued a Gateway Determination.
2020	The Local Planning Panel decided for the Draft LEP to proceed to exhibition.
2020	Council exhibited the Draft LEP.
2020	The Local Planning Panel adopted the Draft LEP.
2020	Council forwarded the Draft LEP to the Department for review and determination.
2020-22	<p>The Department commenced its review of the Draft LEP. Over the last three years, the Department has identified matters that required clarification or additional information. To date, Council officers have provided the required information to address these.</p> <p>The Department subsequently identified the need for a Land Use Safety Study to inform the planning controls for development near the Moomba to Sydney Pipeline. The implementation of the study findings is the subject of this report.</p>
2022	The Department converted the LEP maps to a new digital format under its ePlanning program, which aims to increase the use of electronic communication methods in planning. The maps will be publicly accessible on the NSW planning portal.

The Department is expecting the Draft LEP to come into force by the end of 2022. The Draft LEP will apply to development applications lodged on or after this date and will replace Bankstown LEP 2015 and Canterbury LEP 2012.

Update on the Draft DCP

In 2021, Council adopted the Draft DCP. The Draft DCP supports the Draft LEP by providing additional objectives and planning controls to enhance the function, design and amenity of development. The Draft DCP is to come into force once the Department approves the Draft LEP and will replace Bankstown DCP 2015 and Canterbury DCP 2012.

The Department subsequently identified the need for a Land Use Safety Study to inform the planning controls for development near the Moomba to Sydney Pipeline. The implementation of the study findings together with some administrative amendments are the subject of this report.

FINANCIAL IMPACT

This matter has no financial implications for Council.

COMMUNITY IMPACT

The preparation of the Draft LEP and Draft DCP constitutes a significant public benefit as it will bring greater consistency to the planning controls currently applying in the Canterbury-Bankstown Local Government Area. This will facilitate a streamlined development assessment process and provide greater consistency in planning controls across the Local Government Area that will benefit both residents and industry alike. The Draft LEP and Draft DCP are products of significant research, analyses and strategic planning.

DETAILED INFORMATION

Draft DCP Amendment 1: Moomba to Sydney Pipeline Land Use Safety Study

What is the Moomba to Sydney Pipeline?

According to the Department's Planning Circular PS 18-010, high pressure pipelines are normally steel pipelines which operate at high pressure to transport gas or liquids over long distance. The Moomba to Sydney Pipeline is an example of a high pressure pipeline. It was constructed in the 1990s and crosses through the Canterbury-Bankstown Local Government Area along the East Hills Railway Line. It transports ethane gas from Moomba, South Australia to industrial facilities in Port Botany.

What are the existing planning controls for development near high-pressure pipelines?

The *State Environmental Planning Policy (Transport and Infrastructure) 2021* and the Department's Planning Circular PS 18-010 currently require Council to notify pipeline operators of development applications near high pressure pipelines. The notification requirements ensure pipeline operators are aware of new development at an early stage of the development assessment process. This would enable pipeline operators to work with Council and proponents to review the level of risk both to and from a pipeline and appropriately manage potential risks to the pipeline, and to development from the pipeline.

For example, increased construction activity associated with new development may impact the safe operation of high pressure pipelines. The key cause of a pipeline rupture is a puncture or penetration of the pipeline by machinery, such as an excavator or a drill especially during construction.

Why prepare a Land Use Safety Study?

According to the Department's Hazardous Industry Planning Advisory Papers, there is a range of risks to which people are exposed as the result of various activities. For example, in relation to common accidents in NSW, the chance of fatality in a car accident is 145 in a million per year, while fatality from accidents in the home is 110 in a million per year.

In relation to development near high pressure pipelines, the risk is potential injury or fatality from a pipeline rupture (e.g. exposure to fire or toxic smoke). The Hazardous Industry Planning Advisory Paper No. 4 aims to reduce the chance of potential injury or fatality to as low as reasonably practical by applying the following precautionary approach:

- The siting and construction of residential development must limit the fatality risk level to one in a million per year. The one in a million criterion assumes that residents will be at their place of residence and exposed to the risk 24 hours a day and continuously day after day for the entire year. In practice this is not the case, and this criterion is therefore conservative.
- The siting and construction of sensitive uses must limit the fatality risk level to 0.5 in a million per year. The reason is people in hospitals, children at school or senior residents are more vulnerable to hazards and less able to take evasive action, if need be, relative to the average residential population.

The Department has requested Council to prepare a Land Use Safety Study to inform the planning controls for development near the Moomba to Sydney Pipeline. Council commissioned an independent specialist to prepare the study in accordance with the Department's risk criteria and hazard analysis guidelines.

What are the findings of the Land Use Safety Study?

The Department reviewed the study and is proposing to implement the recommendations as follows:

Study findings and recommendations	Department's proposed action
<p><u>Sensitive uses</u> Within the East Hills, Panania, Revesby and Padstow centres, there are some properties adjacent to the pipeline that are exposed to a fatality risk level of more than 0.5 in a million per year. It would be inappropriate to permit sensitive uses at these locations. It is not possible to design buildings to limit the fatality risk level to below 0.5 in a million per year.</p> <p><u>Recommendation 1:</u> Restrict sensitive uses on properties where the fatality risk level is more than 0.5 in a million per year.</p>	<p>Include a new clause and Hazard Area Map in the Draft LEP to identify the properties adjacent to the pipeline (known as "Area 1") where sensitive uses are to be prohibited.</p> <p>Sensitive uses are to include new schools, hospitals, seniors housing, respite day care centres, early education and care facilities and correctional centres.</p>
<p><u>Residential development</u> The proposed residential intensification may be permitted within the East Hills, Panania, Revesby and Padstow centres, provided dwellings adjacent to the pipeline are designed to shield occupants during the evacuation period. This practice is common in the design of buildings for bushfire exposure.</p> <p>Occupants are not considered vulnerable if buildings can withstand a heat flux of 20kW/m² as the result of fire incidents. This would reduce the fatality risk level to one in a million per year or less, which is consistent with the Department's Hazardous Industry Planning Advisory Papers.</p> <p><u>Recommendation 2:</u> Ensure residential development on certain properties adjacent to the pipeline incorporate risk mitigation measures to withstand a heat flux of 20kW/m² in accordance with the National Construction Code.</p>	<p>Include a new clause and Hazard Area Map in the Draft LEP to identify the properties adjacent to the pipeline (known as "Area 2") where residential development must incorporate measures to adequately mitigate the impacts of exposure to the pipeline.</p> <p>Council is required to amend the Draft DCP to reference the more detailed risk mitigation measures recommended by the Land Use Safety Study, such as fire-resisting construction and evacuation access.</p>
<p><u>Other development</u> The risk levels are below the criteria for commercial development, shops, sporting complexes and open space.</p>	<p>No action required.</p>
<p><u>Development applications</u></p>	<p>Council is required to amend the Draft DCP to require new buildings in the East Hills, Panania,</p>

Study findings and recommendations	Department's proposed action
Recommendation 3: Ensure construction activities do not impact upon the pipeline. At the development application stage, proponents should demonstrate how this will be achieved by submitting a safety management study in accordance with the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> .	Revesby and Padstow centre boundaries to submit a safety management study at the development application stage.

What are the Draft DCP amendments?

The table below lists the Draft DCP amendments to implement the recommendations of the Land Use Safety Study together with the proposed additional LEP provisions to be implemented by the Department. The intended outcomes of the Draft DCP amendments are:

Draft DCP amendment	Reason
<p>Include a new clause to apply to residential development on land identified as "Area 2" on the LEP Hazard Area Map (refer to Figures 1–4).</p> <p>The new clause would require residential development to incorporate the following measures as a minimum to adequately mitigate the impacts of exposure to the pipeline:</p> <ul style="list-style-type: none"> • Development must comply with the performance standards set for '3m from the boundary' under the Building Code of Australia. • Openings that face the pipeline must comply with clause C3.4 of the Building Code of Australia. • Development must protect service openings in accordance with C3.15 of the Building Code of Australia. • Development must protect the construction joints, spaces and the like in and between building elements in a manner identical to a tested prototype in accordance with AS1530.4-2012 to achieve the required fire-resistance level. • Fire exit stairs must discharge into locations that are shielded and away from the pipeline location. • Proponents must prepare an appropriate emergency response plan(s) for use by the building occupants. 	<p>A new clause and Hazard Area Map in the Draft LEP propose to identify the properties adjacent to the pipeline where residential development must incorporate measures to adequately mitigate the impacts of a pipeline rupture.</p> <p>The Draft DCP amendment supports the Draft LEP by implementing Recommendation 2 of the Land Use Safety Study. The recommendation identifies the mitigation measures in more detail.</p>
<p>Include a new clause to apply to new buildings in the East Hills, Panania, Revesby and Padstow centre boundaries.</p> <p>The new clause would require new buildings to submit a safety management plan. The plan must identify any potential safety risks or risks</p>	<p>The Draft DCP amendment implements Recommendation 3 of the Land Use Safety Study.</p> <p>Council would give written notice of development applications and safety management plans to the pipeline operator and</p>

Draft DCP amendment	Reason
to the integrity of the pipeline that are associated with the development, and to take those risks into consideration.	must take into consideration any response from the pipeline operator in accordance with the requirements of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> .

Figure 1: Land in East Hills (shown blue) where residential development must incorporate mitigation measures



Figure 2: Land in Panania (shown blue) where residential development must incorporate mitigation measures



Figure 3: Land in Revesby (shown blue) where residential development must incorporate mitigation measures

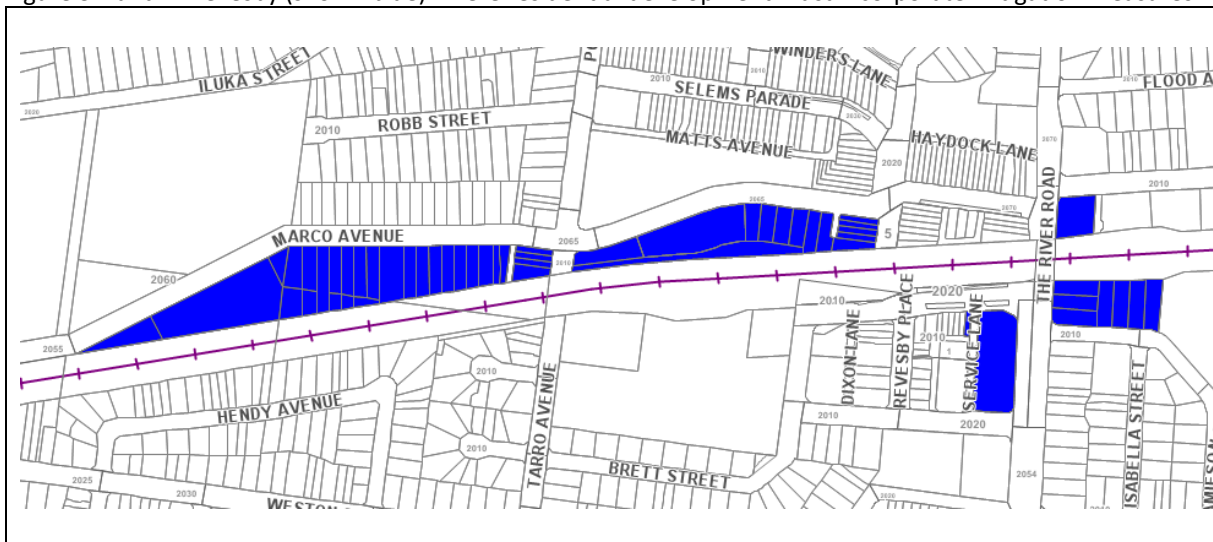
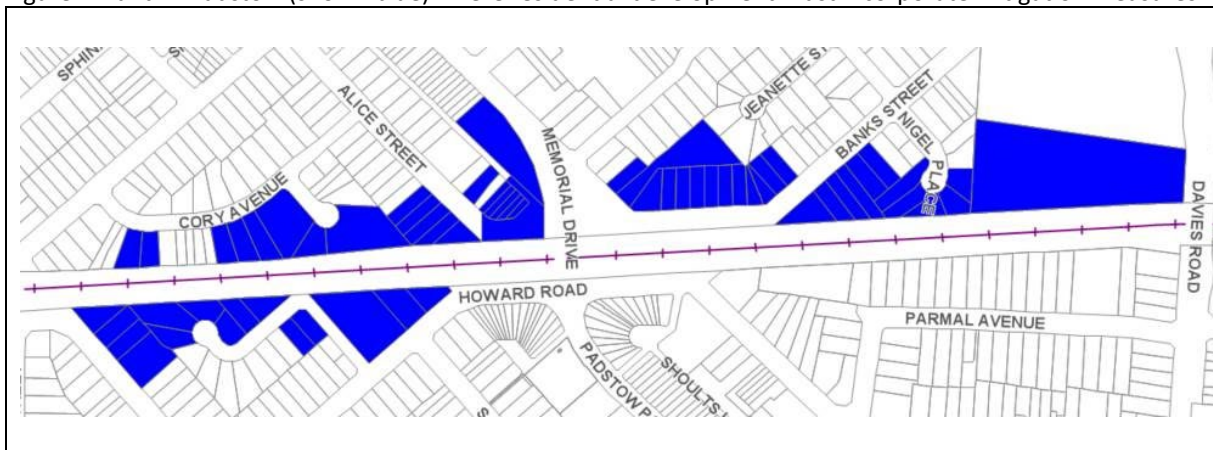


Figure 4: Land in Padstow (shown blue) where residential development must incorporate mitigation measures



Draft DCP Amendment 2: Administrative amendments

It is proposed to include certain administrative amendments, as provided in Attachment A, to address the following issues:

Issue	Draft DCP amendment
<p>Council adopted the Draft DCP in 2021 with the name <i>Canterbury-Bankstown Development Control Plan 2021</i>.</p> <p>The issue is the Department is proposing to give the Draft LEP the name <i>Canterbury-Bankstown Local Environmental Plan 2022</i>. The year of the Draft DCP would need to match the Draft LEP.</p>	<p>Amend the name of the Draft DCP to read: <i>Canterbury-Bankstown Development Control Plan 2022</i>.</p>
<p>Council adopted the Draft DCP in May 2021. The Department consolidated the state environmental planning policies, which commenced in March 2022. The issue is the need to reference the new state environmental planning policies.</p>	<p>Reference the new state environmental planning policies where required.</p>
<p>The Bankstown LEP 2015 currently contains a 'front building line' definition, which reads:</p> <p>(a) for a lot that has only one road frontage—the line the consent authority is satisfied is the minimum setback a building should be from the road alignment, or</p> <p>(b) for a lot that has more than one road frontage—the shortest of the lines (excluding an access handle or right of way for access) that can be calculated under paragraph (a).</p> <p>The definition is applicable to the floor space ratio and lot size controls. The issue is the Department is not proposing to transfer this existing definition to the Draft LEP.</p>	<p>Transfer this existing definition from the Bankstown LEP 2015 to the Draft DCP.</p>
<p>The Canterbury DCP 2012 (B1.4.1, C20) does not support mechanical parking devices, including car lifts, as a form of off-street parking.</p> <p>The issue is the consolidation of the Bankstown DCP 2015 and Canterbury DCP 2012 inadvertently omitted the transfer of this existing control to the Draft DCP. The intended outcome of the consolidation process is to retain this existing control.</p>	<p>Transfer this existing control from the Canterbury DCP 2012 to the Draft DCP.</p>
<p>The Bankstown DCP 2015 (B1, C4.3) currently contains an existing control that reads: <i>For development that establishes a dual occupancy and a secondary dwelling on the same allotment, the two dwellings forming the dual occupancy may be subdivided provided the minimum lot size is 450m² per dwelling.</i></p> <p>The existing control reinforces the need for secondary dwellings to comply with the minimum 450m² lot size requirement, particularly at the rear of dual occupancies.</p> <p>The issue is the consolidation of the Bankstown DCP 2015 and Canterbury DCP 2012 inadvertently omitted the transfer of this existing control to the Draft DCP. The reinstatement of the existing control is consistent with the Gateway Determination of the Draft LEP, which did not permit changes to the existing residential controls.</p>	<p>Transfer this existing control from the Bankstown DCP 2015 to the Draft DCP.</p>

Next steps

Should Council support the Draft DCP amendments for exhibition purposes, the next steps are:

1. Exhibit the Draft DCP amendments for public comment for a minimum 28 days.
2. Following the exhibition, a report will be presented to Council to consider any submissions and associated amendments prior to deciding whether to adopt the Draft DCP amendments.
3. The Draft LEP may come into force prior to reporting the Draft DCP amendments to Council. For this reason, it is not proposed to include a savings provision as the Draft DCP amendments would need to apply to development applications lodged on or after the Draft LEP comes into force.

ATTACHMENT A–Draft DCP Amendments

Amendment No.	Draft DCP Amendment
1	<p><u>All chapters</u></p> <p>Amend the name of the Draft DCP to read: <i>Canterbury-Bankstown Development Control Plan 2022</i>.</p>
2	<p><u>All chapters</u></p> <p>Reference the new state environmental planning policies where required.</p>
3	<p><u>Chapter 1.1 [Introduction and Administration]</u></p> <p>Transfer the existing ‘front building line’ definition from the Bankstown LEP 2015 to Chapter 1.1 (Section 3) to read: <i>front building line means:</i></p> <p>(a) <i>for a lot that has only one road frontage—the line the consent authority is satisfied is the minimum setback a building should be from the road alignment, or</i></p> <p>(b) <i>for a lot that has more than one road frontage—the shortest of the lines (excluding an access handle or right of way for access) that can be calculated under paragraph (a).</i></p>
4	<p><u>Chapter 2.4 [Pipeline Corridors]</u></p> <p>Replace Chapter 2.1 (Section 2) with a new Chapter 2.4 to read:</p> <p><u>SECTION 1—MOOMBA TO SYDNEY PIPELINE CORRIDOR</u></p> <p><u>Explanation</u></p> <p><i>The pipeline corridor crosses through the Canterbury-Bankstown Local Government Area. The SEPP (Transport and Infrastructure) 2021 and State guidelines require development on land adjacent to the pipeline corridor (Licence 15) to consider potential safety risks or risks to the integrity of the pipeline and to consequently introduce planning controls to manage the level of risk.</i></p> <p><u>Objectives</u></p> <p>01 <i>To identify matters for consideration in the assessment of development on land adjacent to the pipeline corridor.</i></p> <p>02 <i>To provide for consultation with relevant pipeline operators about certain development during the assessment process.</i></p>

Development Controls

Pipeline easement

1.1 *The pipeline operator that manages the pipeline easement must consent to any proposed works within the easement or within three metres of the pipeline through the Third Party Works Authorisation process.*

Residential development

1.2 *This clause applies to development for the purposes of residential accommodation on land identified as "Area 2" on the Hazard Area Map as follows:*

- (1) The objective of this clause is to allow residential development on land adjacent to the pipeline corridor provided:*
 - (a) buildings incorporate measures to adequately mitigate the impacts of exposure to the pipeline,*
 - (b) buildings incorporate measures for features exposed to the pipeline to withstand a heat flux of 20kW/m²,*
 - (c) buildings provide reliable evacuation access.*
- (2) Before granting development consent, Council must be satisfied that the development:*
 - (a) complies with appropriate performance solutions assessed by the verification method in accordance with section A2.2(2)(b) of the Building Code of Australia, and*
 - (b) complies with the performance standards set for '3m from the boundary' under the Building Code of Australia, including but not limited to:*
 - (i) development must be 'TYPE A' construction regardless of rise in storey and must incorporate fire-resisting construction in accordance with the details specified in C1.1 of the Building Code of Australia, noting that the fire-resistance level is achieved when subjecting a system to the AS1530.4 standard fire test,*
 - (ii) development must protect openings that face the pipeline in accordance with C3.4 of the Building Code of Australia, noting that if passive protection or performance solutions are relied upon the system would need to achieve the same fire resistance level or better as the fire resisting element it is located within,*
 - (iii) development must protect service openings in accordance with C3.15 of the Building Code of Australia,*
 - (iv) development must protect the construction joints, spaces and the like in and between building elements in a manner identical to a tested prototype in accordance with AS1530.4-2012 to achieve the required fire-resistance level,*

	<p>(v) <i>fire stair exits must discharge into locations that are shielded away from the pipeline location, and</i></p> <p>(c) <i>submits an appropriate emergency response plan for use by building occupants, and</i></p> <p>(d) <i>submits a report prepared by a qualified consultant to the satisfaction of Council, which verifies that if all of the commitments relating to the building design and construction listed in the report are fulfilled, the development will comply with this clause.</i></p> <p>(3) <i>In this clause, qualified consultant means a consultant who holds a current registration as a 'Building Surveyor-Unrestricted' or 'Certifier-Fire Safety' for the purposes of section 6(4) of the Building and Development Certifiers Act 2018.</i></p> <p>1.3 <i>Development may be carried out using performance solutions in accordance with clause A2.1 – (1) or (3) of the Building Code of Australia provided the development satisfies or exceeds the relevant performance requirements outlined in clause 1.2. The design fire must address:</i></p> <p>(a) <i>vertical fire spread,</i></p> <p>(b) <i>horizontal fire spread, and</i></p> <p>(c) <i>a fire brigade intervention scenario in the Building Code of Australia that is not less than the requirements in clause 1.2.</i></p> <p><u>Safety management plans</u></p> <p>1.4 <i>Council requires the erection of new buildings on land shown in Figures 1–4 to submit a safety management plan in accordance with the Australian Standard 2885 (Standard for Gas and Liquid Petroleum Pipelines) to assess the land use and construction risks.</i></p> <p>1.5 <i>Council may require other development on land adjacent to the pipeline corridor to submit a safety management study in accordance with the Australian Standard 2885 (Standard for Gas and Liquid Petroleum Pipelines) to assess the land use and construction risks.</i></p>
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This map illustrates the proposed East Hills Light Rail line in Sydney. The line is shown as a blue route starting from East Hills Station and heading south-east. Key streets shown include Henry Lawson Dr, Macclaurin Ave, Monie Ave, Park Rd, Broe Ave, Forest Rd, and Harcourt Ave. The map also depicts East Hills Park, Monash Reserve, and the East Hills Station. The light rail line is highlighted in blue, running from the station towards the south-east.

This is a detailed street map of the Westwood area in Los Angeles, California. The map shows a grid of streets including Marco Ave, Braesmere Rd, Shertock Ave, Tower St, and others. A large area is highlighted in blue, indicating a specific neighborhood or project area. Key landmarks like Panania Post Office and Kelso Park Girl Guides are marked. The map is oriented with North at the top.

Figure 3: Land in Revesby (shown blue) where new buildings must submit a safety management plan (subject to formatting)

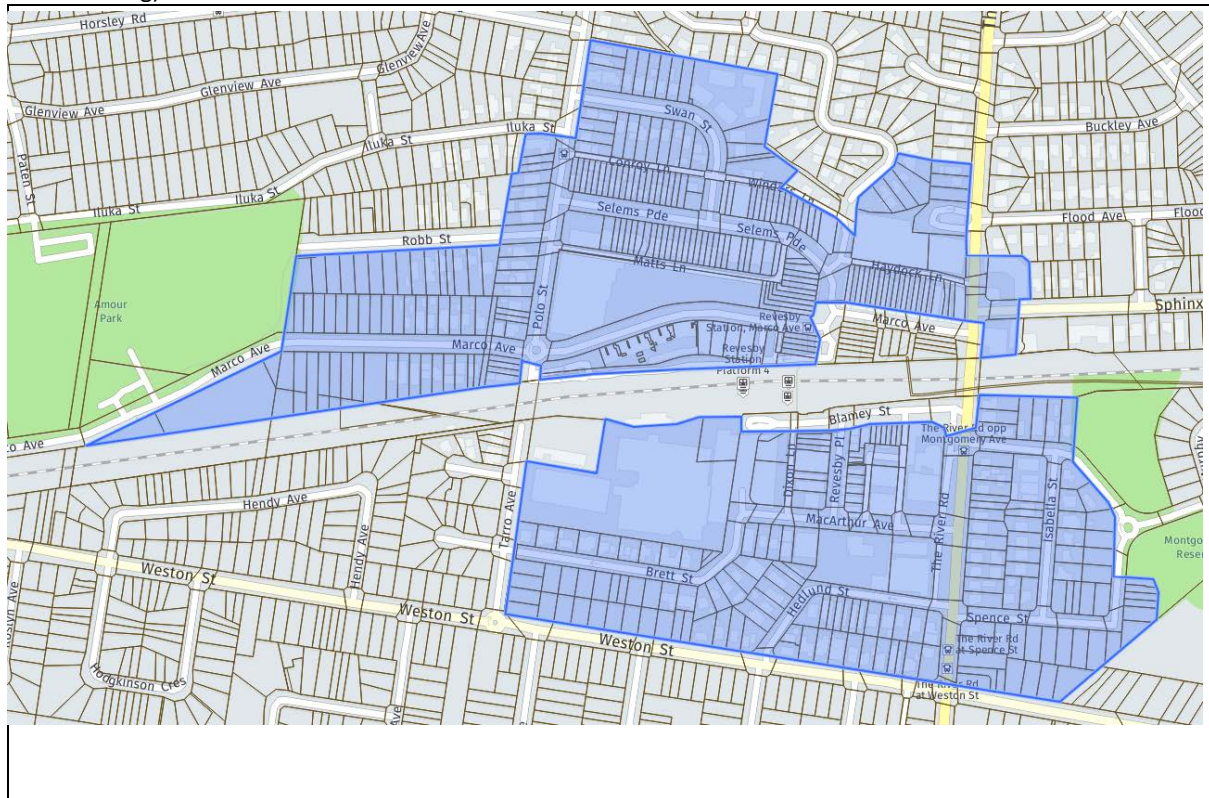


Figure 4: Land in Padstow (shown blue) where new buildings must submit a safety management plan (subject to formatting)



Amendment No.	Draft DCP Amendment
5	<p><u>Chapter 3.2 [Parking]</u></p> <p>Transfer the existing control from the Canterbury DCP 2012 (B1.4.1, C20) to Chapter 3.2 (Section 3, clause 3.7) to read: <i>Mechanical parking devices, including car lifts, will not be supported.</i></p> <p>Renumber the subsequent clauses accordingly.</p>
6	<p><u>Chapter 5.1 [Residential Development in the Former Bankstown LGA]</u></p> <p>Transfer the existing control from the Bankstown DCP 2015 (B1, clause 4.3) to Chapter 5.1 (Section 4, clause 4.1) to read: <i>For development that establishes a dual occupancy and a secondary dwelling on the same allotment, the two dwellings forming the dual occupancy may be subdivided provided the minimum lot size is 450m² per dwelling.</i></p> <p>Renumber the subsequent clauses accordingly.</p>

CANTERBURY BANKSTOWN
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN COUNCIL CHAMBERS
ON 29 SEPTEMBER 2022

ITEM 5.2 DRAFT HOUSEKEEPING AMENDMENTS TO THE COMMUNITY PARTICIPATION PLAN

(216) CLR. HARIKA:/CLR. DOWNEY

RESOLVED that

1. Council adopt the draft amendments to the Community Participation Plan, as provided in Attachment A.
2. The Amended Community Participation Plan be published on Council's website and NSW Planning Portal.

- CARRIED

For:- Clrs Abouraad, Asfour, Cahill, Coorey, Downey, El-Hayek, Harika, Nguyen, Raffan, Saleh, Waiba, Walsh and Zakhia

Against:- Nil

ITEM 5.3 DRAFT CONSOLIDATED LOCAL ENVIRONMENTAL PLAN UPDATE AND DRAFT DEVELOPMENT CONTROL PLAN AMENDMENTS

(217) CLR. WALSH:/CLR. HARIKA

RESOLVED that

1. Council exhibit the draft amendments to the Draft Canterbury Bankstown Consolidated Development Control Plan as provided in Attachment A.
2. This matter be reported to Council following the exhibition period.

- CARRIED

SECTION 6: POLICY MATTERS

Nil