

<b>JRPP No.</b>	<b>2011SYW076</b>
<b>DA Number</b>	DA-531/2011
<b>Local Government Area</b>	Bankstown City Council
<b>Proposed Development</b>	Construction of a Mixed-use Development Comprising Basement car parking, Ground Level Shops, First Floor Commercial and 70 Residential Units
<b>Street Address</b>	443-445 Chapel Road,Bankstown
<b>Applicant</b>	Mehris Constructions Pty Ltd
<b>Owner</b>	Chapel Business Centre Pty Ltd
<b>Number of Submissions</b>	1
<b>Recommendation</b>	Approval
<b>Report by</b>	Sindhu Kaphle, Development Assessment Officer, City Planning and Environment

## **SUMMARY REPORT**

This matter is reported to the Joint Regional Planning Panel for determination due to the value of works exceeding \$10million (cost of works is \$13,470,686).

Development Application No. DA-531/2011 proposes construction of a mixed-use development comprising ground level retail shops, first floor commercial space, and 70 residential units and basement car parking.

DA-531/2011 has been assessed in accordance with the provisions of the *Environmental Planning and Assessment Act, 1979 (the Act)* and in particular against the provisions of the *State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (SEPP 65)*, *Bankstown Local Environmental Plan 2001 (BLEP)* and *Bankstown Development Control Plan 2005 (BDCP)* and is recommended for approval.

The application was advertised and notified for a period of twenty one (21) days. One (1) objection was received during this period, which raises concerns relating to vehicle access, carparking allocation and traffic generation. The points of objection are not considered sufficient to warrant refusal or major redesign of the proposal

## **BACKGROUND / HISTORY:**

In 2005, Bankstown City Council granted approval to a mixed use development on this site for two levels of commercial use and fifty seven (57) residential units on a 'deferred commencement' basis. The building had a floor space ratio (FSR) of 3.436:1. The applicant was required to obtain approval from Bankstown Airport Limited (BAL) for the proposed building height and consent of the adjoining owner to the east for removal of a number of trees located within the proximity of the boundary prior to the consent being operational. Whilst the applicant was able to obtain the approval from the BAL, they could not obtain consent of the adjoining owner for the removal of the trees. Subsequently the consent lapsed on 1 September 2010.

A new development application was lodged in 2010 for the construction of a mixed-use development comprising 2 retail units, 5 SOHO units and 70 apartments with 2 levels of basement parking. The development had a value of over \$10 million and was determined by the JRPP by way of refusal. The application was refused primarily on the following grounds:

- Lack of adequate first floor commercial.
- Non-compliance with the floor space ratio
- Non-compliance with SEPP 65 and Residential Flat Design Code (RFDC).
- Lack of adequate street frontage on Rickard Road.
- Poor amenity to future residents of the units due to inadequate solar access, natural ventilation, unit sizes and storage space.

The current proposal has largely addressed the non-compliances with SEPP 65 and the RFDC. A detailed assessment against each of the grounds of refusal is provided in the later sections of this report. Whilst the FSR is over the BLEP requirement, the application is considered a much improved version to the proposal previously refused by the JRPP and is of a similar scale, bulk and height to the one previously approved by Council in 2005.

## **POLICY IMPACT**

The development has policy implications as the applicant is seeking a variation to the 3:1 floor space ratio (FSR) applying to the development site, by means of an objection to this standard under the provisions of *State Environmental Planning Policy No.1* (SEPP 1). The proposed development has a FSR of 3.435:1 which exceeds the permitted FSR by 14.5%

In determining whether a variation to the FSR standard is reasonable and can be supported certain principles could be considered such as the following:

- Whether site conditions, including the shape and frontage of the land, and any other site constraints may adversely impact on the potential development of the site, or part of the site, and would warrant consideration of a variation to the maximum allowable FSR.
- Whether the applicant has needed to retain a site feature, building or tree on one part of the site and then sought to retain and transfer the FSR loss on that part of the site to an adjoining site.
- Whether other development controls and standards are not compromised such as applicable height, car parking, setback controls, and including consideration of recommended design parameters of the Residential Flat Design Code.
- Whether the site is a prominent gateway site or other significant site where a FSR concession may facilitate a development of greater merit and design.
- Whether any concession or variation could establish an unacceptable precedent or expectation for future FSR increases in the area.

The site is a corner block bounded by commercial developments on all sides. The site's context and orientation lends well to a more intensive development than a single aspect lot. Due to the site configuration the impact on the adjoining developments has been managed well despite the additional floor area proposed in the development.

In terms of the quality of the design, the proposed development satisfies the design quality principles specified in SEPP 65. The previous design which was refused has been improved to satisfy those design parameters which were seen as being critical for the amenity of the residents including the provision of adequate communal open space, solar access, cross ventilation and storage areas. The proposed development is considered to have sufficient architecture merit in terms of building form, design and external finish.

Whilst the site is no longer identified as a gateway site within Bankstown Council's Strategic Plan for the Bankstown CBD, it occupies a significant corner location and has capacity to accommodate a significant building.

The current proposal contains two levels of retail/commercial floor which was lacking in the previous DA refused by the JRPP earlier this year. This is in line with Council's vision to establish a mixed-use zoning in the majority of the Bankstown CBD which requires ground floor active retail, first floor commercial and residential above.

Based on the above arguments it is considered that the proposed variation to FSR is supportable and strict compliance with the standard in this instance is unlikely to result in a better outcome either for the site or the community. Variation to the FSR in this instance is not likely to have a major policy implication as each proposal is considered on its own merits.

### **FINANCIAL IMPACT**

This matter has no direct financial implication.

### **RECOMMENDATION**

That:

1. JRPP support the objection pursuant to SEPP 1 in relation to the floor space ratio as contained in Clause 30 of the Bankstown Local Environmental Plan; and
2. That Development Application No. DA-531/2011 be granted approval subject to the attached conditions.

## ATTACHMENTS

- A - Development Application Assessment Report
- B - Conditions of Consent
- C - Application Plans - Site and Floor Plans
- D - Application Plans - Elevations and Sections
- E - Perspectives
- F - Landscape Plans
- G - Shadow diagrams and Solar Access Diagrams