

## ATTACHMENT A - DEVELOPMENT APPLICATION ASSESSMENT REPORT

DA-531/2011 (2011SYW076)

### SITE & LOCALITY DESCRIPTION

The subject site is irregular shaped with frontages of 56.6m to Chapel Road and 35.7m to Rickard Road. The combined area of the site is 2297.4m<sup>2</sup>.

The site was previously used as a caryard and is currently vacant. The land slopes from the north towards the south along Chapel Road by approximately 1.8m and from west to east along Rickard Road by approximately 600mm.

To the north and east of the site are 2-storey commercial buildings. Opposite the site on Chapel Road are an ALDI supermarket and a disused fruit shop building. To the southwest across the intersection is a newly constructed two (2) storey commercial building which has approval to construct an eight storey mixed commercial/residential tower towards the corner of Rickard Road and Kitchener Parade frontage. To the south across Rickard Road is the Bankstown Council Town Hall which is under reconstruction for adaptive reuse including the construction of a public library. The surrounding area is characterised by a mixture of commercial, retail and mixed-use developments of varying scale and height.



Figure 1: The site - 443-445 Chapel Road, Bankstown (Source: Google)

## **PROPOSED DEVELOPMENT**

The development application proposes the construction of a mixed-use development comprising ground level retail shops, first floor commercial space and 70 residential units with basement car parking and will involve the following works:

- Site preparation works and site excavation to provide 2 levels of basement parking for a total of 111 parking spaces comprising 74 for residents, 9 for retail, 15 for commercial and 14 for residential visitor parking.
- Construction of a 9 level building, with the ground floor to contain five 5 retail shops, lift lobbies, garbage store, loading dock, plant rooms and stores. The first floor to contain 7 offices and Levels 2 to 8 contain a total of 70 residential apartments divided between two towers including 2 adaptable units.
- Landscaping and paving at ground level.

Vehicular access to the basement car park and loading/unloading area is provided from Chapel Road via an entry/exit driveway ramp located to the north-western corner of the site.

The designing architect in his design statement has described the building in the following terms:

*"... The apartments are intended to set a bench mark for contemporary urban design for this area. The clean lines of the facades and curves create a bold and sophisticated statement that is appropriate for this urban location. The facade design is the result of an analysis of the key height lines of the surrounding buildings. The resulting form creates a fluid expression of function and style. This form tempered by glazing and glass louvers for sun control and shelter from wind to create a simple and unique contemporary urban expression".*

Building materials proposed include precast concrete panels, terracotta wall cladding, framed glassed balustrade and painted metal louvers.

A perspective of the proposed development from the street corner is produced overleaf.



Figure 2: - Perspective of the Proposed Development (Source - Tony Owen Ptnrs)

### **Amendment to the Development**

The application plans were amended on 19 August 2011 involving modification to the floor plans including reconfiguration of the parking layout, reduction of retail units from 6 to 5, raising floor level of ground floor facing Rickard Road to address stormwater flooding and additional access to communal area at Level 2.

The modifications were mainly internal and did not impact the overall building form, height and setbacks. On this basis the amended plan was not re-notified.

### **SECTION 79C ASSESSMENT**

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

#### **Environmental planning instruments [section 79C(1)(a)(i)]**

##### **State Environmental Planning Policy (Major Development) 2005 (MD SEPP)**

The application was lodged on 21 June 2011 when 'Part 3 - Regional Development' of the MD SEPP was in force. Clause 13B of the SEPP provided that for development that had a capital investment value of more than \$10 million the consent authority function was to be exercised by the Joint Regional Planning Panel.



Recent changes to the Act have repealed this provision from the SEPP. The Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011 (the Repeal Act) commenced on 1 October 2011. New classes of regional development are now set out in Schedule 4A, of the EP & A Act 1979. This schedule replaces the former classes of regional development set out in Part 3 of MD SEPP. Under the amended provision development that has a capital investment value of more than \$20 million is to be determined by the regional panel.

Clause 15(3) of Schedule 6A -Transitional arrangements of the Repeal Act provides that "... *the applicable regional panel continues to exercise the consent authority functions of a Council for the following development applications ...*

- (a) *a development application for development that has a capital investment value of more than \$10 million if the development application was made, but not determined by the panel, before the commencement of Schedule 4A".*

Based on the transitional arrangements, the application is to be determined by the Joint Regional Planning Panel.

#### State Environmental Planning Policy No 55 - Remediation of Land

Under the provisions of Clause 7 of State Environmental Planning Policy No. 55, a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

#### Comments:

The site has been previously used as a car yard. A Phase 1 preliminary site investigation report was submitted with the previous development application. The report concluded that "... *Given the concentrations of contaminants across the site and the existing site zoning as 3a Business - CBD no further consideration for remediation is required. However, ... the removal of the UST's and fuel dispensing systems should be undertaken in accordance with WorkCover and NSW EPA requirements. Included with the tank would be the remediation of the UST tank pits and service line trenches*".

As the site has been vacant since the report was prepared for the previous DA, the conclusions reached in the previous report are considered valid. Council's Environmental Officer has reviewed the proposal and recommended that conditions requiring removal of underground fuel tanks and remediation and validation of the tank pit area prior to issue of a construction certificate for civil and building work be imposed if an approval is granted. The removal of the USTs and the associated remedial works is considered to render the site suitable for the proposed development, thus satisfying Clause 7 of the SEPP.

## State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

SEPP 65 aims to improve the design quality of residential flat buildings and provides an assessment framework, the Residential Flat Design Code (RFDC) for assessing 'good design'.

Clause 50(1A) of the EPA Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This document has been submitted and is considered to satisfy the submission requirement.

With regard to the RFDC, the following aspects of the development which were deficient in the previously refused application and have largely been addressed in the current design are discussed below:

### Solar Access

In the current scheme, 50 of the 70 residential units achieve the required solar access. This constitutes 71.4% of the units and thus satisfies the 70% requirement under the RFDC.

### Communal Open space

Communal open space is provided at ground level and the second floor level. The ground level communal open space incorporates seating, BBQ area and children's play ground. The second floor level communal area fronts Chapel Road and is accessible to both Block A and B. The total communal area provided equals approximately 32% of the site area. The RFDC requires 25 to 30% of the site area to be used as communal open space thus satisfying the requirement.

### Natural Ventilation

RFDC recommends at least 60% of the units to be naturally cross ventilated. There are 28 corner units that are naturally cross ventilated. In addition, the applicant is proposing a ventilation plenum to facilitate cross ventilation in 14 single aspect units. A ceiling plenum over the corridor is used to connect the ventilation shaft to the units. A ventilation report has been provided from ARUP detailing the design requirements for the ventilation shaft and the plenum and acoustic treatment to address any acoustic issue as a result of the air movement between the apartment and corridor. This achieves 60% of the units being naturally cross-ventilated.

### Active Street Frontage

The previous design had very limited retail space to Rickard Road frontage with a substantial part of the frontage occupied by service entry and store. The current design has largely addressed this issue by locating the service entry from Chapel Road and providing retail area to both Rickard and Chapel Road frontages.

### Storage Space

The RFDC recommends that in addition to kitchen cupboards and bed room wardrobes, accessible storage facilities be provided at the rate of 8m<sup>3</sup> for 2 BR units and 10m<sup>3</sup> for 3+ BR units. In the current design each unit has been provided with storage area partly in storage cells in the basement and partly in the living area of the units. The design and amount of storage space provided is considered to satisfy the RFDC provision.

### Design Review Panel

The proposal was presented to Bankstown Council's internal Design Review Panel (Panel) for review. The Panel raised a number of issues with the design and recommended that the applicant amend the design to address the issues raised by the Panel and submit the amended proposal to the Panel for consideration prior to determining the development application.

Subsequently the design was modified and resubmitted to Council and was presented to the Panel for review. The Panel reviewed the amended proposal, which is the subject of this report, on 13 October 2011 and is satisfied with the amended scheme except for the following:

- *The proposed residential entry from Rickard Road should ensure that there is an additional door access on the western side of the Rickard Road entry to improve the access from the corner of Chapel Road and Rickard Road.*

Comment: This design modification has been incorporated in the amended plan.

- *As proposed the blocks do not comply with the building separation distances, the applicant has to address the privacy issues between units in close proximity*

Comment: Block A and Block B have a minimum separation of 5m at the corner. Whilst the separation is well below the 18m to 24m recommended by the RFDC, the layout is such that despite the inadequate building separation, the development satisfies the daylight access, urban form and visual and acoustic privacy. The privacy between the units has been addressed through use of privacy screens.

- *The proposed plenum system is complex and is not supported by the panel.*

Comment: As discussed above the applicant is proposing ventilation shafts and plenums to provide cross ventilation to two of the single aspect units in each floor. A ventilation report from ARUP has been provided demonstrating that the system will provide cross ventilation to the units. Whilst the solution is not considered the best architectural solution it achieves the cross ventilation recommended by the RFDC.

- *The proposed walkway to the podium level communal openspace would be more amenable and softened by providing plantation screening to the adjoining private balconies/courtyards along the passageway.*

Comment: This design modification has been incorporated in the amended plan by replacing the solid walls with louvers.

### **Bankstown Local Environmental Plan 2001**

The following clauses of the Bankstown Local Environmental Plan 2001 were taken into consideration:

Clause 2 – Objectives of this plan  
 Clause 11 – Development which is allowed or prohibited within a zone  
 Clause 13 – Other development which require consent  
 Clause 16 – General objectives of the special provisions  
 Clause 19 – Ecologically sustainable development  
 Clause 20 - Trees  
 Clause 24 - Airports  
 Clause 26 – Flood liable land  
 Clause 30 – Floor space ratio  
 Clause 32 – Access for people with disabilities  
 Clause 48 – Objectives of the Business zones

An assessment of the Development Application revealed that the proposal fails to comply with the provisions of Bankstown Local Environmental Plan 2001 relating to floor space ratio.

#### **Clause 30 - Floor space ratio**

An assessment of the development application revealed that the proposal fails to comply with the provisions of *Bankstown Local Environmental Plan 2001* relating to maximum floor space ratios under clause 30 of Bankstown LEP 2001 and as indicated on the floor space ratio maps.

In this part of the CBD a floor space ratio (FSR) of 3:1 applies where the site has a minimum primary frontage of 30m. The site has a width of 56.6m to Chapel Road and 35.7m to Rickard Road. On a corner lot, the shortest frontage is regarded as the primary frontage. Accordingly, Rickard Road is taken as the primary frontage in this instance. Based on this a FSR of 3:1 applies to the whole site.

The proposed development has a total floor space ratio of 3.435:1 and does not comply with Clause 30 of the Bankstown LEP 2001.

#### **Applicant's objection under State Environmental Planning Policy No. 1 seeking variation of maximum FSR**

Pursuant to the Environmental Planning and Assessment Act, 1979, the applicant has submitted an Objection under the State Environmental Planning Policy No. 1 (SEPP 1) with regard to the variation to FSR for the JRPP's consideration on the basis that the development standard is, in this particular case, unreasonable and unnecessary.

The SEPP 1 objection primarily relies on a similar FSR approved for the previous development and that the proposed development has a reduced height and mass. In particular, the following arguments have been provided by the applicant in support of the variation:

- ❑ *The previous approval involved a non-compliance with the then applicable FSR standard, which was supported by Council primarily because of the provision of first floor commercial floor space. The subject proposal maintains a similar arrangement and a variation to the standard is justified for the same reasons, noting Council still promotes the provision of 2 levels of employment use.*
- ❑ *The proposal would substantially comply with the FSR standard if the first floor commercial space was deleted. The applicant has commissioned market advice which is to the effect that there is no current or foreseeable demand for first floor space. It would be the most prudent economic course for the applicant not to provide this space. Providing the space represents a significant economic cost. It is reasonable in the circumstances that the private cost of addressing a public policy end be offset by discounting the relevant GFA.*
- ❑ *Despite the continued non-compliance the proposal replaces the previously approved development with a design that achieves a reduction in building footprint, mass and impact, including traffic impacts, and a substantial improvement in the quality of the design both in terms of aesthetics and dwelling amenity under SEPP 65.*
- ❑ *For practical purposes the proposal is the same development as that previously approved, including the provision of 2 commercial levels, arranged in a superior form.*
- ❑ *The proposed development that reflects the non-compliance has no apparent significant implications for other land. That is, there is no significant shadow, privacy or visual implications for other land that arises from non-compliance. The modifications to the previously approved development have the effect of reducing shadows and other physical effects compared to the approved development, because of the reduced building height.*
- ❑ *The development site is a large, consolidated site on a street corner, which has the capacity to accommodate a more intensive level of development than a regular allotment.*
- ❑ *Land owned by the Council on the opposite side of Rickard Road is zoned to permit development at an FSR of 4.5:1. In this context, the non-compliance has no material implications. The locality of the site is clearly one where more intensive forms of development are expected and promoted.*
- ❑ *The proposal does not offend any of the objectives of the standard. In particular, in relation to the objectives cited above-*
  - *The scale and bulk of the development is not materially different to that of a complying development, and is less than that would have been able to be constructed on the site under the former consent. The non-compliance will not create any significant adverse visual impact on other land, or lead to any adverse relationships with adjoining land.*



- *Objective (d) is satisfied to the extent that the site has been identified in the past as a key CBD site and the proposed FSR is comparable to that previously accepted by the Council as necessary to promote the redevelopment of the site in accordance with the objective. It is understood that the site is no longer classified as a key site, but that does not diminish the significance of its location or capacity to accommodate a significant building.*
- *Despite changes in planning controls there are no material differences in the fundamental planning principles and intent that applied when the previous consent was issued and now. Rigid adherence to a development standard of substantially arbitrary origin is not warranted in the particular set of circumstances.*
- *Variation of the standard would be consistent with the objectives of the Act related to the economic use of the built environment. No adverse natural environmental consequences flow from the proposal.*
- *The variation of the standard is consistent with the Objectives of SEPP 1.*

### Comments

Pursuant to SEPP 1, the JRPP may vary a development standard if it is satisfied that the objection lodged by the applicant is well founded and is also of the opinion that granting consent of the development application is consistent with the aims of this policy.

The aims and objectives of the policy, as set out in Clause 3 of SEPP 1, are to provide “... *flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act*”.

The objects of the Act are:

- 5(a) (i) *to encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) *to encourage the promotion and coordination of the orderly and economic use and development of land.*

In considering a SEPP 1 objection, JRPP is required to assess the objection having particular regards to the following matters:

- ***Is the planning control in question a development standard?***

The floor space ratio is a numerical control and is therefore a development standard.

□ ***What is the underlying object or purpose of the standard?***

As a matter of general principle, an FSR standard is imposed to control bulk, scale and built form of structures. Notwithstanding the general principle, in the absence of other controls it can be also regarded as a control on density.

The relevant objectives of the floor space ratio clause in the Bankstown LEP are:

- (a) *to generally regulate the scale and bulk of development consistently with the capacity and character of the area of the development site.*
- (b) *to regulate the intensity of development in business zones consistently with the role and function of the particular business centre, the capacity of the road network to accommodate business related traffic, and the availability of public transport.*
- (c) *to provide an incentive for redevelopment of key sites in the Bankstown CBD.*

Despite the additional floor area, the proposed development is considered to have a built form of acceptable height, bulk and scale. The development incorporates two levels of non-residential use as required by the BDCP. The site is a large consolidated site on a street corner and the proposed development is expected to provide a building form that defines the corner.

□ ***Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a) (i) and (ii) of the EP & A Act?***

The proposed development is considered to have an acceptable bulk, scale and height for the site context. The current proposal provides the appropriate retail/commercial mix lacking in the earlier scheme. The amenity of the residents has been improved through the provision of adequate communal open space, solar access and cross ventilation not provided by the previous scheme. Under the circumstances, strict numerical compliance with the FSR is considered unnecessary and is unlikely to result in a better outcome.

□ ***Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? and***

Strict compliance with the standard is considered unreasonable in the present context.

□ ***Is the objection well founded?***

A summary of the grounds of objections has been provided above. These include:

- Development being of acceptable scale, height and bulk
- FSR lower than the previously approved building

- Large consolidated corner site can accommodate more intensive development.
- No adverse impact
- Consistent with the objectives of Council Policies and the Act.

The impact of the proposal is assessed in the following sections of this report and the proposal is unlikely to contribute to a significant adverse impact on the adjoining developments.

In conclusion, the SEPP 1 objection is considered well founded and it is a recommendation of this report that the objection be supported.

**Draft environmental planning instruments [section 79C(1)(a)(ii)]**

There are no draft environmental planning instruments applicable to the proposed development.

**Development control plans [section 79C(1)(a)(iii)]**

The development has been assessed against the following provisions of Bankstown Development Control Plan 2005 (Bankstown DCP 2005):

- Part D4 - Business zones
- Part D7 - Sustainable Commercial and Industrial Development
- Part D8 - Parking
- Part E1 - Demolition and construction
- Part E2 - Tree Preservation Order
- Part E3 - Flood Risk Management; and
- Development Engineering Standards

The development is within the Rickard Road planning precinct. The objectives of this precinct are to create a high rise mixed use precinct addressing the Rickard Road boulevard. The character to be created by buildings facing Rickard Road is to be well designed and commercial in appearance with quality material finishes and a high standard of facade and entry design. Part D4 of the DCP provides detailed guidelines for developments generally in the Business zones and specifically in the CBD.

The following table provides a summary of the development application against the controls contained in Part D4 - Business zones of *Bankstown Development Control Plan 2005*.

STANDARD	PROPOSED	BDCP 2005 PART D4		LEP 2001 COMPLIANCE
		REQUIRED/PERMITTED	COMPLIANCE	
FSR	3.435:1	3:1	No	No (This FSR variation is discussed above)
Frontage	35.7m to Rickard Road 56.6m to Chapel Road	30m for 3:1 FSR	Yes	

STANDARD	PROPOSED	BDCP 2005 PART D4		LEP 2001 COMPLIANCE
		REQUIRED/PERMITTED	COMPLIANCE	
Car Parking	Residential: 73  Visitor - 14 Retail: 9 Commercial: 15 Total - 111 spaces  Bicycle: 30	Residential - minimum 70 spaces up to maximum 210 spaces (1 per unit up to 3 per unit). 14 (@ 1 per 5 units) 9 15 Total - 108 spaces  Not required by DCP	Yes	N/A
Height	29.8m	30m	Yes	
Setbacks: Rickard Rd	GF: 0m to 2.8m FF: 2.3m to 3.34m Upper floor: 1.4m to 3.5m	0m to GF & FF  5m to upper floors	Yes  <b>No</b>	
Chapel Road	GF: 5.1m FF: 4.7m Upper levels: 0.4m corner; Other 4.98m to 12.4m	0m to GF & FF  3m to upper floors	Yes  No	
Side/rear	Partly on side boundary and partly variable setback 3m to 8.19m	Business development may have zero setback to side and rear  Residential buildings must consider RFDC (RFDC has no numerical setback control but recommends that it be tested with building separation, open space, deep soil zone requirements and overshadowing of adjoining properties)	Yes	
Solar Access	71.4% (50 of 70 units)	70% of units to receive 3 hours to a living area window	Yes	
Balconies	49 units $\geq 15m^2$ & $< 3m$ wide 21 units $< 15m^2$ $< 3m$ wide (All units $\geq 2m$ deep)	$15m^2$ and minimum depth of 3m (RFDC has no specific area requirement for upper level balconies but recommends that they be at least 2m wide)	<b>No</b>	
Adaptable units	2	2	Yes	
Residential Storage areas	$\geq 8^3$ /unit in basement and inside the apartments	$8m^3$ /dwelling	Yes	
Loading /unloading	Loading and unloading facilities off dedicated area	Mixed use developments to provide appropriate on site facilities	Yes	
Non-residential use	Ground floor retail and first floor offices	All of ground and first floor	Yes	

As the above table demonstrates, the application is seeking variation to the following requirements:

#### Floor Space Ratio

The non-compliance with the floor space ratio has been discussed previously in this report.

#### Setback

A variation to setback requirement is proposed from both street frontages. The applicant has submitted the following arguments in support of seeking the variation to the setbacks.

- ❑ *The extent of non-compliance is not significant.*
- ❑ *The proposed non-compliance is less than that in the approved development for the site.*
- ❑ *The non-compliance does not lead to any implications for other land.*
- ❑ *The non-compliance is more than off-set by the greater and variable setbacks achieved by the balance of the building, particularly on the Chapel Road frontage.*
- ❑ *The corner nature of the site and its relatively narrow width to Rickard Road do not allow for full compliance with the standard, at the same time as achieving urban design objectives to reinforce the prominence of the corner and to present a strong character to Rickard Road.*
- ❑ *The standard is more applicable to a mid-block site than a corner site.*

#### Comment

Bankstown Council's Design Review Panel raised no objections to the proposed setbacks. The setback to Rickard Road varies from 1.4m to 3.5m. The setback from Chapel Road is encroached only by the corner element. These variations to the setback are considered acceptable as a continuation of the corner element and to reinforce the street edge.

#### Balconies

Clause 8.1 of Part D4 of DCP 2005 requires that each unit be provided with a balcony that is at least 15m<sup>2</sup> and has a minimum dimension of 3m. Whilst a majority of the units have been provided with a balcony area of more than 15m<sup>2</sup> none of the balconies meet the DCP requirement in terms of both the area and the width. All units will however have balconies with depths equalling or greater than the minimum 2m recommended by the Residential Flat Design Code (SEPP 65). Although the balconies fail the technical controls of BDCP 2005, they satisfy the requirements of the Residential Flat Design Code. On balance, the development provides for appropriate private open space.

#### Part D7 - Sustainable Commercial and Industrial Development

Part D7 of the Bankstown DCP provides water and energy conservation measures for new commercial and industrial developments based on the floor area. The proposal has a total retail/office floor area of 950m<sup>2</sup>. The DCP requirements for new developments with less than 5000m<sup>2</sup> floor area include installation of water efficient fixtures, building design to enhance energy performance and installation of energy efficient hot water systems, air conditioners and lighting. The proposal is considered capable of satisfying these requirements and if an approval is to be granted, conditions should be imposed requiring compliance with installation of water efficient

fixtures and installation of energy efficient hot water systems, air conditioners and lighting.

#### Part D8 - Car Parking

Off-street car parking for the development has been provided as follows:

Residential parking:	73 spaces (includes 2 disabled spaces)
Retail parking:	9 spaces
Commercial parking:	15 spaces (includes 2 disabled spaces)
Residential visitor parking:	14 spaces (includes 1 disabled space)
Total	111 spaces

The parking requirement under the DCP is as follows:

Residential units:	1 to 3 spaces per unit -	70 spaces
Residential visitors:	1 per 5 units -	14 spaces
Retail/commercial:	1 space per 40m <sup>2</sup> of GFA -	24 spaces
	Total	108 spaces

The proposal satisfies the parking requirements under the DCP. Additionally bicycle parking has been provided for 30 bicycles based on Austroads Guide to Traffic Engineering Practice.

#### Bankstown DCP 2005, Part E1 - Demolition and construction

There are no structures to be demolished as the site is vacant. Contamination of the site has been considered in relation to the provisions of State Environmental Planning Policy No 55. Removal of underground storage tanks and site validation will be required prior to building work commencing on site.

Suitable erosion and sediment control measures and a soil and water management plan will need to be put in place prior to commencement of construction works and retained during construction in accordance with relevant requirements and standard consent conditions.

#### Bankstown DCP 2005, Part E2 - Tree Preservation Order

Six trees located within the site, three trees located on the adjoining land to the east and one tree located on the adjoining land to the east have already been removed. There is no other vegetation impacted by the development.

#### Bankstown Development Engineering Standards

The proposal has been assessed against the relevant provisions of the Council's Development Engineering Standards (DES) and appropriate concept drainage plans have been provided by the applicant. These concept drainage plans have been assessed and found to be generally satisfactory.



**Planning agreements [section 79C(1)(a)(iia)]**

There are no planning agreements applicable to the proposed development.

**The regulations [section 79C(1)(a)(iv)]**

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

**Any Coastal zone management plan - section 79C(1)(a)(v)**

The development site is not within the coastal zone, and there is no relevant coastal management plan.

**The likely impacts of the development [section 79C(1)(b)]**

An assessment of the likely impacts of the proposed development has revealed the following issues that require particular attention:

**Access, parking and traffic**

The applicant submitted a Traffic and Parking Assessment Report which concluded that the proposed development will have no unacceptable traffic-related effect.

Both Rickard Road and Chapel Road are classified as Regional Roads under the RTA's road hierarchy. Given the location of the site at an intersection of two regional roads, the plans were referred to the RTA for comments. In their reply RTA raised no objection, in principle, however provided some advisory comments for Council's consideration including the following:

- *In view of the potential adverse impacts on the traffic signals at the intersection of Chapel Road and Rickard Road caused by right turning vehicles into the site the existing median island on Chapel Road is to be extended sufficient distance further to the north in order to restrict the driveway access to left in/left out.*
- *That consideration be given to extend the No Stopping restrictions along the frontage of the subject site on both Chapel Road and Rickard Road.*

All of the RTA's advice have been incorporated in the attached conditions except for the recommendation to extend the 'No Stopping' sign on both Chapel Road and Rickard Road. With regard to this provision Bankstown Council's Traffic Engineer advised that given the current traffic conditions extending the 'No Stopping' sign at this stage is not warranted.

**Safety, security & crime prevention**

The development requires a formal crime risk assessment given the number of apartments exceeding the trigger of 20 units under the RFDC however, no assessment was provided. The applicant in the SEE states that the proposal enables surveillance of surrounding public places and access to the building is to be controlled.

Given its location and scale of the development, it was referred to Council's Community and Development Unit and Bankstown Police. The Bankstown Local Area Command has advised that it has conducted a Safer by Design Crime Risk Evaluation and identified an overall crime risk as **medium**, on a sliding scale of low, medium and high crime risk. The Police have recommended conditions that cover the following Technical/Mechanical (CEPTED) treatment options for the development in order to reduce opportunities for crime.

- CCTV (Closed Circuit Television)
- Lighting
- Signage
- Access Control
- Retail Stores

These matters are such that it can be dealt with during the building design/construction phase and conditions are to be imposed to this effect.

#### **Suitability of the site [section 79C(1)(c)]**

The site is assessed to be suitable to support a large mixed-use development. It is noted that the proposal is generally consistent with Bankstown DCP 2005 objective for this precinct of the CBD to create a high rise mixed use precinct especially along Rickard Road.

#### **Submissions [section 79C(1)(d)]**

The application was advertised for a period of twenty-one (21) days. One (1) objection was received during this period from ALDI, which raised concerns relating to access, car parking and traffic generation.

*Objection: Lack of parking for customers of the retail shops would adversely impact the carparking on the surrounding private carparks.*

*Comment: Council's DCP does not mandate carparking for retail floor space be accessible to the customers. Given the site's location and the size of the retail areas, the development is unlikely to generate significant retail parking demand.*

*Objection: The assumption made in calculating traffic generation for retail use is grossly inadequate for the proposed development.*

*Comment: The Roads and Traffic Authority and Bankstown Council's Traffic Engineer have reviewed the proposal and raise no issues with the way the traffic generation was assessed. Based on the traffic report, the total traffic generation potential of the proposed development is calculated to be 39 vehicle trips per hour (vtph) which is approximately 2.9% to 4.25% of the peak vehicle per hour traffic in Chapel Road. This level of traffic generation is not likely to compromise the operation of the intersection and surrounding network which has also been shown by the INTANAL analysis with no drop in the level of service.*

Objection: *Location of vehicular access and access to loading dock may interfere with the access to the existing development located on the opposite side and may harm their ability to safely and efficiently enter and exit the carparking area, particularly during peak periods.*

Comment: As recommended by the RTA a condition is to be imposed requiring a left in/left out access to the development. This should avoid any conflict between vehicles accessing this site and the ALDI carpark opposite.

*The public interest [section 79C(1)(e)]*

The proposal is considered to be within the wider public interest providing a high-rise development appropriate for the site context.

**CONCLUSION**

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development*, *Bankstown Local Environmental Plan 2001* and *Bankstown Development Control Plan 2005*.

The floor space ratio (FSR) exceeds the maximum 3:1 applicable to the development site under clause 30 of *Bankstown Local Environmental Plan 2001*. The applicant has submitted an objection under *State Environmental Planning Policy No. 1* seeking JRPP support for a variation of the maximum FSR.

It is considered that the application has sufficient merit and strict compliance with the 3:1 FSR standard would be unreasonable or unnecessary in this case. It is therefore recommended that the JRPP support the SEPP 1 objection and approve the development.