

BACKGROUND

Development Application No. DA-821/2012 (JRPP Ref. 2012SYW103) proposed the demolition of the existing site structures occupying No. 351 Hume Highway, Bankstown and for the construction of five (5) detached residential flat buildings containing one hundred (100) residential apartments with associated landscaping, underground and at-grade car parking. The application was considered by the Sydney West Joint Regional Planning Panel at its meeting held on 18 July 2013. The Panel resolved to approve the application with Council issuing a Determination Notice dated 24 July 2013.

Modification Application No. DA-821/2012/1 (JRPP Ref. 2014SYW013), being the subject of this supplementary report, proposes the following modifications to the above development:

- **Blocks A & B**
North elevation setback a further 900mm - 1000mm from the front property boundary and an additional basement level. Basement carparking spaces increased from 33 to 43 spaces.
- **Block C**
Basement modification, internal layout changes, including increase of units from 18 to 20.
- **Block D**
Basement modification, internal layout changes. Northern façade changed from an angled façade to a stepped façade. Carparking spaces increased from 25 to 28 spaces. Basement carparking spaces reduced from 54 to 44 spaces.
- **Block E**
Additional basement level. Internal layout changes, including increase of units from 26 to 28. Basement carparking spaces reduced from 37 to 32 spaces.
- **Block F**
Internal layout changes, including increase of units from 22 to 28. Basement carparking spaces increased from 30 to 36 spaces.

The modification application was considered by the Sydney West Joint Regional Planning Panel at its meeting held on 6 November 2014. At this meeting the Panel took the following decision:

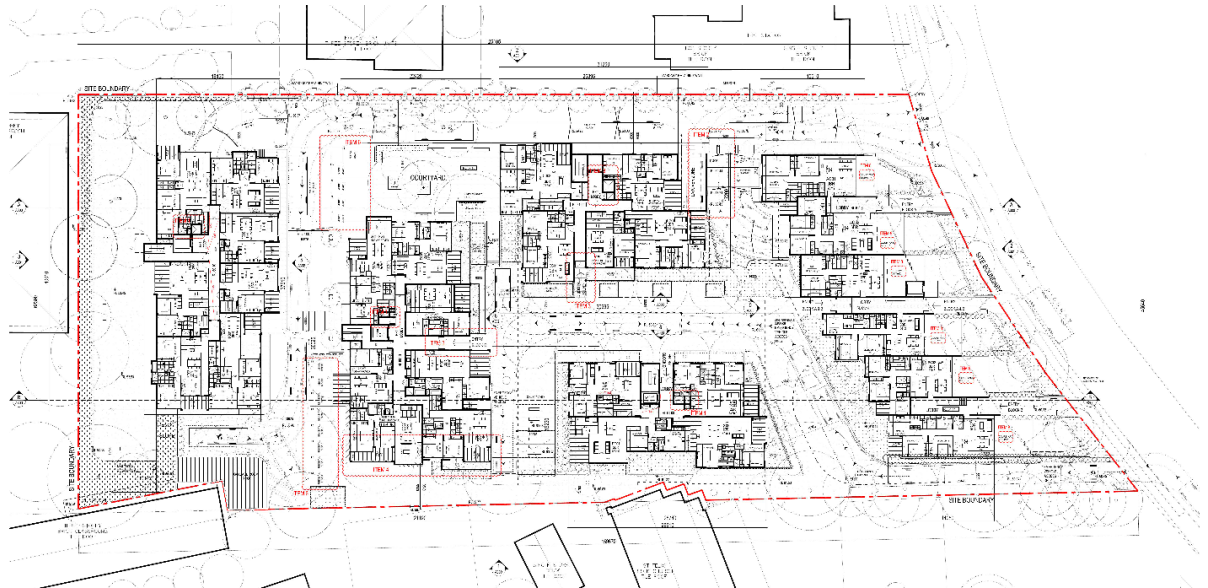
‘The Panel unanimously resolves that the application is deferred for the submission by the applicant of amended plans showing the changes proposed by the applicant to deal with the appropriate accommodation of the existing R.O.W.’

AMENDED PLANS

Following the Sydney West Joint Regional Planning Panel meeting held on 6 November 2014, the applicant has amended the application to include a boundary adjustment. The adjoining property owners have consented to the proposed boundary adjustment and it resolves the previously raised concerns of the adjoining

property owners and the JRPP in relation to the R.O.W. Refer to site/ground floor plans below:

Previous site/ground floor plan



Amended site/ground floor plan with boundary adjustment



SECTION 79C(1) ASSESSMENT

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

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 requires consent
Clause 16 – General objectives of these special provisions
Clause 19 – Ecologically sustainable development
Clause 20 - Trees
Clause 24 - Airports
Clause 30 – Floor space ratios
Clause 36C – Development along arterial roads
Clause 38 – Development in the vicinity of heritage items
Clause 44 – Objectives of the residential zones
Clause 45 – General restrictions on development
Clause 46 – Core residential development standards
Clause 47 – Isolation of allotments

An assessment of the Modification Application revealed that the proposal complies with the matters raised in each of the above clauses of *Bankstown Local Environmental Plan 2001*, with the exception of Clause 30 – Floor Space Ratios. This non-compliance is discussed in the following section of this report.

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

At the time of the lodgment of this modification application, the Bankstown Local Environmental Plan 2001 (BLEP 2001) was in force while the Draft Bankstown Local Environmental Plan had been publicly exhibited. Pursuant to the matters for consideration, the provisions contained within the draft exhibited plan is required to be considered in the assessment of the subject modification application.

On 5th March 2015, the Bankstown Local Environmental Plan 2015 (BLEP 2015) was published on the NSW Legislation website, hence came into effect on this date. The savings and transitional provisions contained within Clause 1.8A of BLEP 2015 has the effect of limiting consideration of the provisions contained within the LEP to only those development applications lodged on or after the 5th March 2015.

BLEP 2015 essentially represents the published version of the draft LEP hence, in consideration of the draft instrument, consideration has been given to the provisions contained within BLEP 2015. While BLEP 2015 proposes the introduction of some additional provisions, in the most part, the new instrument provides for an administrative conversion of BLEP 2001 to the standard instrument LEP template.

With respect to the proposed modification application, it is considered that the proposal remains consistent with the aims and objectives of the instrument. Approval of the development would not be inconsistent with the intent and purpose of the instrument.

Specifically, in regards to calculating the floor space ratio under the BLEP 2015 the FSR would generally be lower than the approved plans (calculated at 1.1:1 under BLEP 2005), as the BLEP 2015 excludes the external wall thickness in the calculation of gross floor area. However, several internal amendments have been made to the plans, including the conversion of garbage chutes to floor space (as the chutes were not considered practical by Council officers) and a boundary adjustment

which reduces the development's site area. The gross floor area of the amended plans (including minor internal amendments and boundary adjustment) results in a higher floor space ratio of 1.1:1 as calculated under BLEP 2015. Refer to calculations below:

Standard	Proposed (with new site area/ boundary adjustment)	Previously plans reported to JRPP November 2014 (no boundary adjustment)	Approved	Required	Compliance
Floor Space Ratio	1.11:1 (calculated by definition under BLEP 2015)	1.05:1 (calculated by definition under BLEP 2015)	1:1 (calculated by definition under BLEP 2001)	1:1	No

The increase in floor space ratio does not result from an increase in building footprint, size or bulk, it is merely due to minor internal changes, the boundary adjustment and is also affected by the latest definition of gross floor area under the current BLEP 2015.

The change in floor space ratio from the approved 1.05:1 to the proposed 1.11:1 will not be visually apparent or detrimentally significant to the development as proposed. It is therefore considered that the application, including the minor increase in floor area is worthy of approval and that refusal of the application on these grounds is unwarranted.

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

The development has been assessed against the following provisions of Bankstown Control Plan 2005 (BDGP 2005).

- Part D2 – Residential Zones
- Part D3 – Key development sites in residential zones
- Part D8 – Parking
- Part E1 – Demolition and Construction
- Development Engineering Standards

Part D2 of the DCP provides detailed guidelines for residential flat development generally in the 2(b) – Residential B zones, with Part D3 providing specific controls for this site. The amended plans do not raise any new non-compliances beyond those outlined in Council's previous assessment report. However, the boundary adjustment does reduce the development site by 386.8m² (from 8589m² to 8202.2m²) which changes the calculations relating to density and landscaping. These calculations are presented in the table below:

Standard	Proposed (with new site area/ boundary adjustment)	Previously plans reported to JRPP November 2014 (no boundary adjustment)	Approved	Required	Compliance
Site Density	Shortfall of 1517.8m ² Total site area required for 110 Units = 9720m ² (6 small and 104 medium dwellings) Site area provided = 8202.2m ²	Shortfall of 1131m ² Total site area required for 110 Units = 9720m ² (6 small and 104 medium dwellings) Site area provided = 8589m ²	Complied Total site area required for 100 Units = 8520m ² (16 small and 84 medium dwellings) Site area provided = 8589m ²	<ul style="list-style-type: none"> Small dwellings = 1/60m² of site area Medium dwellings = 1/90m² of site area Large dwellings = 1/120m² of site area 	No
Landscaping	Shortfall of 837.43m ² Provided = 3472.54m ² Required = 4310m ² (6 small units X 25m ² and 104 Medium units X 25m ²)	Shortfall of 694m ² Provided = 3616m ² Required = 4310m ² (6 small units X 25m ² and 104 Medium units X 25m ²)	Complied Provided = 3774.3m ² Required = 3760m ² (16 small units X 25m ² and 84 medium units X 40m ²)	<ul style="list-style-type: none"> 25m² per small dwelling 40m² per medium dwelling 55m² per large dwelling 	No
Carparking	162	167	149	162	Yes

As the table demonstrates, the application is seeking variations to Council's landscaping and site density controls required by BDCP 2005 – Part D2. It is noted that the amended development as previously reported to the JRPP on 6th of November previously proposed variations to landscaping and site density.

Although the landscaping area is reduced and the overall site density increased (from the plans previously presented to the JRPP 6 November 2014), the differences are only marginal, being 3% and 4% respectively. The minor difference in the calculation of landscape and site density result entirely from the change in the position of the boundary, not as a result of increase building footprint, height, bulk or scale. The proposed variations to landscape and site density will not be visually apparent and will not result in any adverse environmental impact on the adjoining properties or the locality. The development and proposed variations are therefore considered worthy of approval and refusal of the application on these grounds is unwarranted.

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 remains consistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

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

The amended proposal remains acceptable with regard to its likely environmental, social and economic impacts on the locality, as discussed in Council's original assessment report.

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

The site remains suitable for the proposed development (as modified).

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

The initial application to modify the development consent was advertised and notified for a period of twenty-one (21) days, from 29 January until 19 February 2014. One (1) submission was received during this period. The concerns raised (being the number of units, traffic, neighbour consultation, safety and permissibility), have previously been addressed in the report presented to the Sydney West Joint Regional Planning Panel at its meeting held on 6 November 2014.

Following the deferment of the application and the submission of amended plans (with the incorporation of the new boundary adjustment), the application was re-notified for a further fourteen (14) days from 16 April to 29 April 2015. During that notification period, three submissions were from the same address. The submissions raised the following concerns:

- Building height
- Additional units, traffic and noise
- Changes to the garbage area
- Stormwater management
- Additional screening of windows on the eastern elevation of Block F
- Boundary adjustment and potential Building Code of Australia non-compliances

Building height

The height of the buildings remain consistent with the original approval. No increase in overall height is proposed.

Additional units, noise and traffic

The original proposal for 100 residential units was assessed as being appropriate in the context of the existing adjoining land uses. The changes proposed as part of this modification application, mainly being the additional 10 residential units, will not result in the development being incompatible with or unsuitable to the adjoining land uses and its occupants.

The original application was referred to the Roads and Maritime Services (RMS) and concurrence was granted. The application to modify the development consent does not involve any changes to access provisions/driveway locations and was not required to be referred back to the RMS for consideration.

Changes to the garbage area

One submission sought confirmation that no garbage collection area is proposed to be located in close proximity to the south-eastern site boundary. The bin storage area has been deleted from this area of the site and relocated within the buildings. Condition No. 74(g) has been added to the consent, see below:

- 74) *Waste and recycling generated by the occupants of the development following the issue of the Final Occupation Certificate shall be collected by Bankstown City Council. The waste storage area and collection of the bins shall comply with the following:*
- a) There shall be two waste collection points provided for the development, in accordance with the approved plans.*
 - b) Site management shall be responsible for the transfer of bins and is not the responsibility of Council.*
 - c) The bins for Blocks A, B, C & D shall be presented along the driveway adjacent to the garbage room located in Blocks C & D for collection.*
 - d) The garbage bins for blocks A and B shall be stored in the basement and transferred up to the collection point a maximum of 24 hours prior to the scheduled Council collection times (and transferred back to the basement within 24 hours of the waste being collected).*
 - e) The bins for Blocks E & F shall be stored in the garbage room located in Block E and presented along the driveway adjacent to the garbage room for collection.*
 - f) All bins may only be transferred to the collection point a maximum of 24 hours prior to the scheduled Council collection times (and transferred back to the basement within 24 hours of the waste being collected). Site management shall be responsible for the transfer of bins and is not the responsibility of Council.*
 - g) Bins are not to be stored or collected within the truck/vehicle turning area adjacent to the south-eastern boundary at any time.*

Stormwater management

The proposed modifications do not negatively impact the stormwater system proposed for the development site. The developer will have to comply with the relevant conditions of consent. These conditions include the provision of adequate soil erosion and sediment control measures, a stormwater system that complies with Council's Development Engineering Standards and restoration works on the downstream properties to the satisfaction of the adjoining property owners.

Additional screening of window of Block F

Condition 17 has been amended to reflect the amended plans to include privacy screening to block F, see the amended condition below:

- 17) The louvres/privacy screens shown on the eastern elevation of Block B, D, E, including to the balconies, shall be constructed in a manner that will prevent views into the adjoining St Felix de Valious Catholic School property at 347A Hume Highway, Bankstown. The privacy louvers/privacy screens shall also be added to Block F.

Details are to be shown on the plans which accompany the Construction Certificate and shall be certified as compliant prior to the issue of the Occupation Certificate.

Boundary adjustment and potential Building Code of Australia non-compliances

A review of the plans indicate that there are not likely to be any adverse BCA implications for the existing buildings as a result of the boundary adjustment. However, a condition of consent (condition No. 77) has been added to the approval, please see below:

- 77 A statement shall be provided to Council prior to the issue of the Subdivision Certificate from a suitably qualified Building Code of Australia consultant certifying that the boundary adjustment does not result in any non-compliances with the Building Code of Australia, or that all works (if any) have been carried out to existing buildings in relation to the associated upgrade to ensure compliance with the Building Code of Australia.

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

The proposed amendments would not contradict the public interest.

RECOMMENDATION

It is recommended that the modification application be approved, subject to the attached modified conditions, including the following specific amendments to Conditions 2, 3, 14, 17, 64 and 74 and the addition of conditions 62(a), 75, 76 and 77 as detailed below:

- The description of development has been amended to reflect the correct number of units and to include the boundary adjustment.
- Condition 2 has been amended to refer to the amended plans.
- Condition 3 has been amended to refer to the amended acoustic report.
- Condition 14 has been amended to adjust the Section 94A Contribution figure, as the cost of works has increased as a result of the proposed changes.
- Condition number 17 has been amended to refer to Blocks B D, E & F due to the relabelling of Blocks.
- Condition 64 has been amended to reflect the increase in number of car parking spaces.
- Condition 62(a) has been added in relation to the new boundary adjustment.
- Condition number 74 has been amended to reflect changes to the waste collection and storage areas.
- Condition number 75, 76 and 77 have been added in relation to the new boundary adjustment.

The description of development has been amended to read as follows:

Demolition of existing site structures and the construction of five (5) residential flat buildings varying in height between 3 & 5 storeys containing 110 residential apartments, associated landscaping, underground and at grade car parking and associated boundary adjustment.

- 2) Development shall take place in accordance with Development Application No.DA-821/2012, submitted by Statewide Planning, accompanied by Drawing No. A108 to A114 Rev, dated 24/4/2013, A300 Rev, dated 7/9/2012, A301 – street, west and block A south elevations Rev B, dated 24/4/2013, A301 – street, west and south elevation Rev B, dated 24/4/2013, A302 Rev B, dated 24/4/2013 & A303 Rev B, dated 17/1/2013, prepared by Tony Owen Partners, unless altered, amended or superseded by the Section 96(2) Amendment Application No. DA-821/2012/1, by Drawing No. A108, A111, A112, & A114 Rev K, dated April 2015, Drawing No. A109 Revision L, dated 22/06/15, Drawing No. A110 Revision J, dated April 2015, Drawing No. A113 Revision H, dated April 2015, Drawing No. A300, A301, A302 and A303, Revision F, dated April 2015, prepared by dem, and affixed with Council's approval stamp, except where otherwise altered by the specific amendments listed hereunder and/or except where amended by the conditions contained in this approval.

The development plans shall be amended as follows:

- a) Letterboxes within central lift lobby. All Construction Certificate plans shall be consistent with this requirement.
- 3) The recommendations of the Acoustic Report by Vipac 10 April 2014 are to be fully implemented.

- 14) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$249,447.05 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

Note: The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 17) The louvres/privacy screens shown on the eastern elevation of Block B, D, E, including to the balconies, shall be constructed in a manner that will prevent views into the adjoining St Felix de Valious Catholic School property at 347A Hume Highway, Bankstown. The privacy louvers/privacy screens shall also be added to Block F.

Details are to be shown on the plans which accompany the Construction Certificate and shall be certified as compliant prior to the issue of the Occupation Certificate.

- 62(a) Evidence of lodgment of the boundary adjustment with the Land and Property Management Authority shall be submitted to Council prior to the issue of an occupation certificate.

- 64) A minimum of one hundred and sixty-two (162) off street car spaces being provided in accordance with the submitted plans. This shall comprise:

- One hundred and forty (140) residential spaces
- Twenty (22) residential visitor spaces

Two (2) of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 74) Waste and recycling generated by the occupants of the development following the issue of the Final Occupation Certificate shall be collected by Bankstown City Council. The waste storage area and collection of the bins shall comply with the following:

- a) There shall be two waste collection points provided for the development, in accordance with the approved plans.
- b) Site management shall be responsible for the transfer of bins to the collection points and is not the responsibility of Council.
- c) The bins for Blocks A, B, C & D shall be presented along the driveway adjacent to the garbage room located in Blocks C & D for collection.

- d) The garbage bins for blocks A and B shall be stored in the basement (of blocks A & B) and transferred up to the collection point a maximum of 24 hours prior to the scheduled Council collection times (and transferred back to the basement within 24 hours of the waste being collected).
- e) The bins for Blocks E & F shall be stored in the garbage room located in Block E and presented along the driveway adjacent to the garbage room for collection.
- f) All bins may only be transferred to the collection point a maximum of 24 hours prior to the scheduled Council collection times (and transferred back to the basement within 24 hours of the waste being collected). Site management shall be responsible for the transfer of bins and is not the responsibility of Council.
- g) Bins are not to be stored or collected within the truck/vehicle turning area adjacent to the eastern boundary at any time.

PRIOR TO ISSUE OF THE SUBDIVISION CERTIFICATE FOR THE BOUNDARY ADJUSTMENT

- 75) The following information shall be submitted to Council or accredited certifier (where applicable) with an application for a Subdivision Certificate:
 - a) Original plan of subdivision prepared and signed by a qualified surveyor, plus five (5) copies;
 - b) Copy of the relevant development consent, including all Section 96 Modifications if applicable,
 - c) Works as executed engineering plans.
 - d) Evidence that all conditions of consent have been complied with,
 - e) A certificate of compliance (Section 73 Certificate) from Sydney Water if required,
 - f) Final occupation certificate for all works.
 - g) Certification by a registered surveyor that all services such as stormwater, drainage, water, gas, electricity and telephone are contained separately within each lot or within easements created to accommodate such services.
 - h) Copy of the Work Permit Compliance Certificate, where required.
- 76) An application and appropriate fees for the issue of a Subdivision Certificate shall be submitted to Council upon all works being completed.
- 77) A statement shall be provided to Council prior to the issue of the Subdivision Certificate from a suitably qualified Building Code of Australia consultant certifying that the boundary adjustment does not result in any non-compliances with the Building Code of Australia, or that all works (if any) have been carried out to existing buildings in relation to the associated upgrade to ensure compliance with the Building Code of Australia.

