

ITEM	133 - 139 Chapel Road, BANKSTOWN NSW 2200
	Demolition of Existing Site Structures and the Construction of a Four (4) Storey Residential Flat Building Containing Thirty-One (31) Residential Units with Basement Car Parking and Associated Landscaping
FILE	DA-501/2014 - South Ward
JRPP REFERENCE	2014SYW116
ZONING	2(b)- Residential B
DATE OF LODGEMENT	28 May 2014
APPLICANT	Designcorp Aust P/L
OWNERS	Jean-Claude El-Sabbagh and Hanan El-Sabbagh
ESTIMATED VALUE	\$6,697,545.00
AUTHOR	Development Services (Ian Woodward)

SUMMARY REPORT

This matter is reported to the Sydney West Joint Regional Planning Panel for determination due to the capital investment value of the project exceeding \$5 million for development that incorporates affordable rental housing.

Development Application No. DA-501/2014 proposes the demolition of the three existing dwellings on the properties known as 133 to 139 Chapel Road, removal of existing vegetation, and construction of a four storey development accommodating 31 residential units. Twenty two of these units will be for the purposes of affordable rental housing. Two basement levels are proposed, which will provide car parking for 51 cars, including 3 disabled parking spaces and 7 visitor parking spaces.

DA-501/2014 has been lodged under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 and has been assessed in accordance with the provisions of:

- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- State Environmental Planning Policy No 1—Development Standards;
- State Environmental Planning Policy No- 55- Remediation of Land;
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development;

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment;
- Bankstown Local Environmental Plan 2001 and Bankstown Development Control Plan 2005 (as the application was lodged prior to LEP 2015 and DCP 2015 commencing);
- Bankstown Local Environmental Plan 2015 and Development Control Plan 2015 (which are now made but were draft instruments at the time of lodgement of the application);
- The Residential Flat Design Code.

The application fails to comply with the maximum building height limit of 13 metres established under LEP 2001, proposing an overall height of 14.37m. The site has a cross fall of 2.47m and the building balances areas of excavation and areas where the building projects above existing natural ground level. Some stepping of the ground floor level is also proposed to reduce the height of the building at the worst affected areas. The building is compliant with the provisions of the height limits established by the LEP in the north- western part of the building, with the maximum extent of the breach of the height limit found at the south eastern corner of the building. The proposal is compliant with the 4 storey height limit provided in DCP 2005.

It is considered that the building responds well to the site and its context and is a reasonable addition to the streetscape despite the minor departure from the LEP's height limit. An objection has been submitted under the provisions of State Environmental Planning Policy No. 1- Development Standards, seeking variation to the LEP's height limit. The objection is considered to be well founded and compliance with the standard unreasonable and unnecessary in this instance. Accordingly, it is recommended that variation of the height limit be supported in this instance.

In addition to the non –compliance with the height limit contained within LEP 2001, some minor non- compliances exist with regards to DCP 2005 and the “rules of thumb” contained within the Residential Flat Design Code, namely in relation to setbacks to building walls, basement areas and to waste storage areas and driveway areas, communal open space provision and access provisions.

It is acknowledged that the controls contained within the RFDC are “rules of thumb” rather than strict numeric controls. Notwithstanding that, the controls do represent appropriate design solutions for developments of this nature and the building is largely compliant with the Code, with the exception of the minor variations identified above. It is not considered that the non- compliances create a form of development which is inappropriate for the site, nor do they produce an outcome which will adversely affect the amenity of future occupants of the development when compared to a development that satisfies all the “rules of thumb”.

The application was advertised in the local newspaper and notified to adjoining and affected residents on two occasions. The first notification period was for 21 days from 11 June 2014 to 1 July 2014. Two submissions were received from the same author, who raised concerns regarding loss of sunlight, reduced property values, loss of privacy, parking and traffic impacts, the appearance of the development and acoustic impacts during and post construction.

Following the receipt of amended plans, the application was again advertised and notified for a further period from 4 March 2015 to 21 March 2015. A further submission was received from the original objector and an additional submission was received from a second party. No new issues were raised in either of the additional submissions.

POLICY IMPACT

The proposed development will not have any significant policy impacts. The non-compliance with the height limit contained within LEP 2001 is minor in terms of the numerical departure and also in terms of the consequences of the departure, and is primarily due to the fall of the land.

The minor departures from the provisions contained within DCP 2005 and the RFDC are considered acceptable, given the nature of the departures, the weight given to these documents under the provisions of Environmental Planning and Assessment Act 1979, and the minimal consequences that arise from the proposed departures.

FINANCIAL IMPACT

The proposed development has no financial impacts.

RECOMMENDATION

It is recommended that:

- A. The objection submitted under the provisions of State Environmental Planning Policy No. 1- Development Standards in relation to Clause 30B of Bankstown Local Environmental Plan 2001 be supported; and
- B. The application be approved on a deferred commencement basis, with satisfactory resolution of basement manoeuvring and basement traffic management being required to be resolved prior to the issue of an operational development consent.

ATTACHMENTS

- A - Section 79C Assessment Report
- B - Locality Plan
- C - Objectors Map *
- D – Conditions of Consent

DA-501/2014 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 133 to 139 Chapel Road, Bankstown. The site is a regular shaped allotment that is zoned 2(b)- Residential B under the provisions of Bankstown Local Environmental Plan 2001. The site is zoned R4- High Density Residential under the provisions of Bankstown Local Environmental Plan 2015 which was a draft environmental planning instrument at the time of lodgement of the development application, and which has since been made. Savings provisions contained within LEP 2015 means that the provisions of LEP 2001 continue to apply to this development application.

The site is located on the south- eastern corner of the Chapel Road and DeWitt Street intersection and contains 3 single storey residential dwellings, all of which are located on separate lots and all of which address Chapel Road. The site has a combined area of 1,789.8m² and has frontages to Chapel Road of 36.705m and to DeWitt Street of 45.065m. Chapel Road forms the site's western boundary, and DeWitt Street is the site's northern boundary. The southern and eastern boundaries of the site are shared with a 3 storey residential flat building on the site known as 127 Chapel Road. The main building form of this adjoining three storey residential flat building is located to the immediate south of the site, and has a minimum setback to the common property boundary with the development site of 5.5m. This adjoining development has vehicular access from De Witt Street and locates its driveway in the area adjacent to the subject sites eastern boundary.

The site has a cross fall of 2.47m from the west to south east and is sparsely vegetated. There are no trees of significance on the site.

Chapel Road is a local road and allows for two way flows in each direction. Chapel Road forms a north- south traffic link between Canterbury Road some 770m to the south, and the commencement of the Bankstown CBD approximately 700m to the north. A bus stop is located on the north-eastern corner of Chapel Road and De Witt Street and this bus stop is serviced by regular bus services within the meaning of the Passenger Transport Act 1990, with services to Liverpool and Strathfield (via Bankstown CBD).

The area surrounding the site can be described as containing three and four storey residential flat building development in the immediate vicinity of the site, with a mixture of residential flat development, villa homes and single residential dwellings located beyond, as follows:

North

Two x four storey residential flat buildings located directly opposite the site on the northern side of DeWitt Street. These buildings comprise ground level/ semi basement level car parking, with three residential levels located above.

South

Immediately to the south of the site is 127 Chapel Road which comprises three separate buildings, each of three storeys in height with a large mono- pitch roof. South of this development is a two storey villa home development with a mix of residential flat buildings and single dwellings located further south.

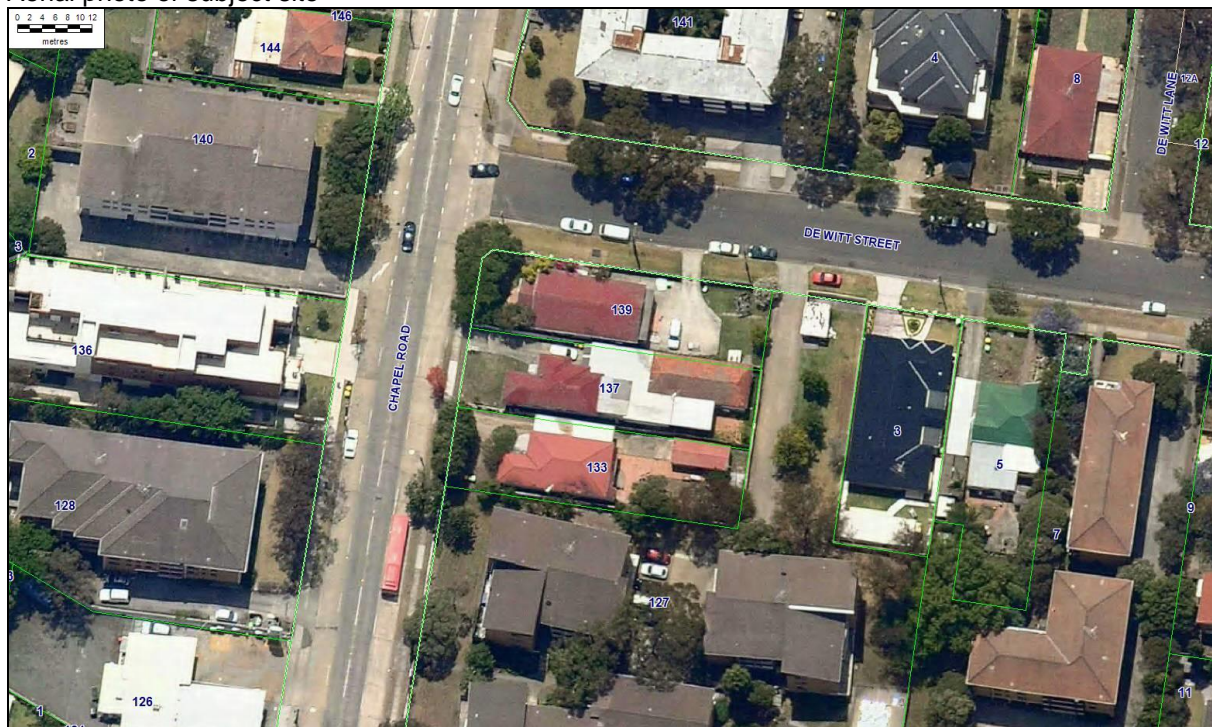
East

Two single dwelling properties are located east of the driveway for No. 127 Chapel Road, one of which contains an existing single storey dwelling, and one is undergoing construction of a single storey dwelling approved under a Complying Development Certificate issued in 2015. A three storey residential flat building is located beyond these dwellings, with a mix of residential types further east along DeWitt Street.

West

Three x four storey residential flat buildings of varying ages are located directly opposite the site fronting Chapel Road with single storey residential dwellings located further north and a BP service station to the south.

Aerial photo of subject site



PROPOSED DEVELOPMENT

Development Application No. DA-501/2014 proposes the demolition of the three existing dwellings on the properties known as 133 to 139 Chapel Road, removal of existing vegetation, and construction of a four storey development accommodating 31 residential units. Twenty two of these units will be for the purposes of affordable rental housing. Two basement levels are proposed, which will provide car parking for 51 cars, including 3 disabled parking spaces and 7 visitor parking spaces.

Each residential level will contain 8 units, all with balcony areas, with the exception of the 4th level, which utilizes the area of one residential unit for the provision of an above ground stormwater detention system. This has been proposed by the applicant as a means of capturing and detaining roof water from the development and allowing discharge to DeWitt Street by gravity, rather than via the creation of a downstream easement.

Each level will provide 1 x single bedroom unit, and 7 x two bedroom units, with the exception of the 4th floor, which will provide 1 x single bedroom unit, and 6 x two bedroom units.

Units 9 to 31 (second, third and fourth floors) have been proposed as affordable rental housing units, comprising 75% of the residential floor space. The following image provides a perspective of the proposed development.

Perspective looking in a south- easterly direction from the intersection of Chapel Road and DeWitt Street



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)]

The following section documents the assessment of the application in accordance with the relevant legislation and planning controls and codes.

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

The site has been assessed in accordance with the provisions of the SEPP. The site has a history of single dwelling residential land uses and it is considered that the site is suitable in its existing state for the development.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The applicant has submitted the required BASIX Certificates in accordance with the provisions of the SEPP.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

The proposal has been supported by a Design Verification Statement in accordance with the SEPP, which adequately addresses the design quality principles contained within the SEPP. Assessment against the provisions of the Residential Flat Design Code is contained in later sections of this report.

Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment

The proposed development is not inconsistent with the provisions of the GMREP No. 2 and there is no evidence to suggest that the proposal will adversely affect water quality of the River.

The following tables provide assessment of the development application against the relevant provisions of:

- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- Bankstown Local Environmental Plan 2001 and Bankstown Development Control Plan 2005
- Bankstown Local Environmental Plan 2015 and Development Control Plan 2015 (which are now made but were draft instruments at the time of lodgment of the application); and
- The Residential Flat Design Code

State Environmental Planning Policy (Affordable Rental Housing) 2009.

Control	Requirement	Provided	Compliance
Land to which Division applies	Must be in zone where RFB's are permitted	BLEP 2001 permits RFB's in the 2(b) zone	Yes
Accessibility	Must be in an accessible area, being <ul style="list-style-type: none"> • 800 metres walking distance of a public entrance to a railway station; or • 400 metres walking distance of a public entrance to a light rail station; or • 400 metres walking distance of a bus stop used by a regular bus service that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday 	The site is located within an accessible area	Yes
Floor Space Ratio	1:1 + 0.5:1 bonus i.e. 1.5:1 total	Floor space ratio is 1.46:1	Yes
Standards that cannot be used to refuse a DA if compliance is achieved			
Site Area	Min 450m ²	Site area is 1,789m ²	Yes
Landscaped area	30% of site area	27.5% excluding pathways 29% including pathways	No
Deep soil zones	15% of site area with 3 metre dimensions and two thirds at the rear of the site	26.6% site area. Width is greater than 3 metres.	Yes
Solar access	living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	77% of units	Yes

Standards that cannot be used to refuse a DA if compliance is achieved			
Car parking	<ul style="list-style-type: none"> at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms 	4 x 1 bed units 27 x 2 bed units Parking requirement = 29 spaces Parking proposed = 44 resident and 7 visitor	Yes
Dwelling size	if each dwelling has a gross floor area of at least: (i) 35 square metres in the case of a bedsitter or studio, or (ii) 50 square metres in the case of a dwelling having 1 bedroom, or (iii) 70 square metres in the case of a dwelling having 2 bedrooms, or (iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.	Min 53m ² for 1 bed Min 73.83m ² for 2 bed	Yes

Bankstown Local Environmental Plan 2001

Control	Requirement	Provided	Compliance
Permissibility	2(b) zoning	RFB's are permitted in the 2(b) zone	Yes
Site frontage	Minimum 30 metre frontage	Min 36.7m frontage	
Site area	Minimum 1,500m ² site area	Site area is 1,789m ²	Yes
Floor space ratio	1:1 max permitted but is over-ridden by SEPP ARH 2009	N/A	N/A
Building Height	13 metres	Ground level at lowest point = RL17.93 Ground level at highest point = RL19.58 <u>Height To top of roof level</u> Roof level = RL 31.0m and RL31.8m Max height = between 13.07m and 12.22m <u>Height To Parapet</u> RL32.3m & RL32.5m to top parapet Max height = between 12.92m and 14.37m <u>Height to top lift over run</u> RL32.8m to top lift over run Ground level immediately below over run is approx. RL18.9m Max height of overrun= 13.9m	NO
Access for people with disabilities	Appropriate access must be provided	Access is provided	Yes

Bankstown Development Control Plan 2005

Control	Requirement	Provided	Compliance
Height	13 metres and 4 storeys	4 storey height <u>Height To top of roof level</u> Max height = between 13.07m and 12.22m <u>Height To Parapet</u> Max height = between 12.92m and 14.37m <u>Height to top lift over run</u> Max height of overrun= 13.9m	No
Reconstituted ground level	not to exceed 600mm above natural ground level	500mm maximum difference	Yes
Setbacks	<ul style="list-style-type: none"> • 6m to primary frontage and secondary frontage • Side and rear setbacks of 4.5 metres provided the average setback is 0.6 multiplied by the wall height (8.6m maximum setback would apply). • The minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres • The minimum setback for a driveway to the side and rear boundaries of the allotment is 1 metre. 	6.0m minimum setback Setback to east =4.5m minimum, extending to 6.0 metres Setback to south = 6.0m min 500mm minimum to east boundary 500mm minimum to east boundary	Yes No No No
Private open space	private open space behind the front building line	Combination of private open space in front and behind the front building line	No
Adaptable units	Residential flat buildings with 10 or more dwellings must provide at least one adaptable dwelling plus an adaptable dwelling for every 50 dwellings	Nil marked on plans. Can be managed via conditions of consent	Yes (via condition)
Roof pitch	The maximum roof pitch for residential flat buildings is 35 degrees	3 degree fall	Yes
Roof top balconies	Council does not allow residential flat buildings to have roof-top balconies and the like	No rooftop balcony provided	Yes
Roof design	The siting of a plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must: (a) integrate with the architectural features of the building to which it is attached; or (b) be sufficiently screened when viewed from the street and neighbouring properties.	Lift over run projects 500mm above the parapet level, but is setback from the edges of the building to reduce visual impact	Yes

Control	Requirement	Provided	Compliance
Car parking design	Development must locate the car parking spaces behind the front building line	Car parking is located behind the front building line	Yes
Waste storage areas	Council may allow the waste storage area to be located forward of the front building line provided it is setback a minimum 1.5 metres from the primary and secondary frontages, and the setback area is planted with native vegetation	910mm setback proposed but entry doors are oriented to allow landscaping between the front property boundary and the structure	No
Landscaping	A development must provide: (a) minimum 45% of the area between the residential flat building and the primary frontage; and (b) a minimum 45% of the area between the residential flat building and the secondary frontage; and (c) plant more than one 75 litre tree between the residential flat building and the primary frontage (refer to Appendix 5 for a list of suitable trees in the City of Bankstown); or	Significantly in excess of 45% Significantly in excess of 45% To be dealt with as a condition of development consent. Significant deep soil areas exist to permit adequate planting	Yes

Residential Flat Design Code

Control	Requirement	Provided	Compliance
Primary building controls Building Envelope	- up to four storeys/12 metres - 12 metres between habitable rooms/balconies - 9 metres between habitable/balconies and non-habitable rooms - 6 metres between non-habitable rooms	Minimum 12 metre separation	Yes
Open space	The area of communal open space required should generally be at least between 25 and 30 percent of the site area	414m ² or 23.1%	No
	The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² ; the minimum preferred dimension in one direction is 4 metres	Ground floor apartment private open space depth varies between 2.5m and 7.7m. Courtyard size varies between 14.57m ² and 50.4m ²	No

Control	Requirement	Provided	Compliance
Balcony areas	Provide primary balconies for all apartments with a minimum depth of 2 metres	Minimum depth 2 metres	Yes
Access	Generally limit the width of driveways to a maximum of six metres. Locate vehicle entries away from main pedestrian entries and on secondary frontages	6.5m driveway width to allow passing area at top of driveway Vehicle access separated from pedestrian access and is on secondary frontage	No Yes
Floor to ceiling heights	- in general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted	Min 2.7m throughout	Yes
Ground floor apartments	Provide ground floor apartments with access to private open space, preferably as a terrace or Garden. Max vertical separation to street level of 1.2m.	Private courtyard areas with separate access provided. Max vertical separation is approx. 500mm	Yes
Internal amenity	The number of units accessible from a single core/corridor should be limited to eight	8 units maximum per floor	Yes
Storage areas	- one-bedroom apartments 6m ³ - two-bedroom apartments 8m ³ - 240m ³ total requirement	353.4m ³ total provided in combination of unit storage and basement	Yes
Unit layout/ depth	. The back of a kitchen should be no more than 8 metres from a window.	Maximum 8.0m for 3 units. All other units significantly less than 8 metres	Yes
Unit size	- 1 bedroom apartment 50m ² - 2 bedroom apartment 70m ²	Min 53m ² for 1 bed Min 73.83m ² for 2 bed	Yes
Solar access	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid-winter	77%	Yes
Solar access	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10 percent of the total units proposed	9.6%	Yes
Natural ventilation	. Sixty percent (60%) of residential units should be naturally cross ventilated. . Twenty five percent (25%) of kitchens within a development should have access to natural Ventilation.	65% achieve cross ventilation 39% of units have kitchens with direct access to a window	Yes

The assessment tables identify the following non- compliances which are addressed in the following sections.

State Environmental Planning Policy (Affordable Rental Housing) 2009.

The SEPP indicates that a development cannot be refused on the grounds of inadequate landscaping, provided the landscaped area exceeds 30% of the site area. It follows that inadequate landscape provision could be used as a reason for refusal if less than 30% of the site is landscaped.

The proposal provides 27.5% of the site area as landscaped area if pathways and the like are excluded (as they are required to be). However, the pathways are in a landscaped setting and are not overly large in area. If they were to be included in the calculation, then the landscaped area would increase to 29% of the site area.

Irrespective, the proposal provides a reasonable level of usable communal open space which only marginally fails to satisfy the provisions of the Residential Flat Design Code in a high density residential environment, and over- provides required deep soil zones. Accordingly, it is considered that the site provides for an adequate provision of landscaped area.

Bankstown Local Environmental Plan 2001

Under the provisions of Clause 30B of LEP 2001, a maximum height limit of 13 metres applies to the site. The development proposes heights to the roof level of between 12.22m and 13.07m, and to the parapet level of between 12.92m and 14.37m. The lift over run is 13.9m in height.

The applicant has lodged an objection under the provisions of State Environmental Planning Policy No. 1- Development Standards, seeking variation to the maximum height provisions.

The SEPP 1 Objection is included as an attachment to this report and in summary, seeks variation on the basis of compliance with the 4 storey height limit contained within Bankstown DCP 2005, consistency with the desired future character of the area, compliance with remaining relevant planning controls, the prominent corner location of the site, a lack of amenity impacts, and the fact that the site is not in an area where height limits transition down.

The objectives of the height control are:

- “(a) to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development is located,
- (b) to maintain the prevailing suburban character and amenity in the low density residential environment by limiting the height of development to a maximum of 2 storeys in Zone 2 (a),
- (c) to provide appropriate height transitions between development, particularly at zone boundaries,
- (d) to define focal points by way of nominating greater building heights in certain locations”.

Objectives (b), (c) and (d) are not applicable in this instance.

With regard to Objective (a), the residential flat building located immediately to the south of the site has a gutter level for the roof of RL 26.8m and a ridge height of RL29.7m. The ground level around this building is set at RL17.92m at its highest point. The RL of the parapet of the proposal is at RL32.5m, meaning that the proposed development will sit 2.8 metres above the ridge of the adjoining development. However, it should be noted that the adjoining development at 127 Chapel Road is a three storey residential flat building, whereas the LEP and DCP provisions permit up to 4 storey development in this locality.

The proposed building has a comparable height to the most recently constructed development in this locality, being 136 Chapel Road located immediately to the west of the site on the opposite side of Chapel Road. That building was approved in 2006 and would have an RL of approximately 33.5m, which is 1 metre higher than the proposed development.

The building located at 136 Chapel Road is consistent with other 4 storey residential flat buildings exist to the north and west of the site and it follows that the height of the proposed development will be compatible with the height of those buildings and with the character of the local area.

The following planning considerations are considered relevant when assessing the proposed variation:

1. The proposal is consistent with the provisions of DCP 2005 in terms of the number of storeys anticipated for this site and area.
2. The development is not inconsistent with development in the immediate vicinity of the site despite the non- compliance with the height standard.
3. The proposal is compliant for a portion of the development, and for that part of the development that does exceed the height limit, the extent of the breach is minor.
4. The departure could be remedied to a large degree by deletion of the parapet roof. However, this would provide an awkward finish to the building for the sake of numerical compliance.
5. The variation is a result of the sloping nature of the site, rather than a poor design solution to the site.

Accordingly, it is considered that compliance with the development standard is unreasonable and unnecessary in this instance, that the SEPP 1 Objection is well founded, and that it is appropriate to vary the development standard in this instance.

Bankstown Development Control Plan 2005

The proposal complies with the provisions of DCP 2005, with the exceptions identified in the following section.

Setbacks

Wall setback

The proposal complies with the minimum 4.5 metre minimum side and rear boundary setbacks applicable to the main building form, but fails to comply with the requirement that walls be setback a distance $0.6 \times \text{height}$. Both these provisions are found within DCP 2005 and would require setbacks of up to 8.6 metres to side and rear boundaries.

The proposed development satisfies the separation distances specified by the Residential Flat Design Code and the minimum 4.5m setback required by the DCP, but fails the DCP provision when wall height is considered. Land to the east is used for driveway purposes and does not contain any dwellings. To the south, the building contains a large recessed area about the centre of the building that partially corresponds with the location of the building at 127 Chapel Road and provides an 8 metre setback to the southern boundary. The proposal will result in some reduction in solar access for the building to the south at 127 Chapel Road, which is dealt with in later sections of this report, and which is considered an acceptable outcome. A minor increase of the setback of 600mm in the central portion of the building and greater at the corners of the building would not resolve this issue. On balance, it is considered that the proposed setbacks are adequate in this instance.

Basement and driveway setbacks

Under the provisions of DCP 2005, the minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres, and the minimum setback for a driveway to the side and rear boundaries of the allotment is 1 metre.

The proposed development provides a 500mm setback to the eastern property boundary for the basement and associated driveway. The purpose of requiring a 1 metre setback for driveway areas is primarily to ensure that the wings associated with the driveway crossing do not extend over the prolongation of the property boundary at the street, to avoid interference with the provision a driveway on neighbouring property. Council's Development Engineer has assessed the proposal and is satisfied that the proposed setback is adequate in this instance, given the location of the adjacent existing driveway for 127 Chapel Road, and its separation from the site.

The 2 metre basement setback required by the DCP would typically ensure (a) sufficient area exists for engineering works that may be required in order to ensure the structural integrity of the adjacent developments is maintained, (b) the root system of significant vegetation on adjoining properties is not impacted upon, and (c) adequate area exists to support deep soil planting in the setback. In the area of the proposed reduced setback there are no structures or vegetation of significance, and landscaping has been proposed on podium levels of the development in raised planter beds. Accordingly, the proposed variation to the setback is not considered to have significant impacts.

Private open space location

DCP 2005 requires private open space areas to be provided behind the front building line. This would require a 6 metre setback for the private courtyard areas. The proposal fails to comply with this requirement for the ground floor units which address DeWitt Street, where a 3.0 metre setback is proposed to the courtyard areas for the ground floor units. Compliance with this control, while at the same time satisfying the minimum open space requirements under the Residential Flat Design Code, is difficult to achieve as it would require setting the building back significantly beyond the setbacks which apply in the DCP.

The development maintains the required setback for the building and provides for landscaping between the DeWitt Street property boundary and the private courtyards, and a mix of soft and hard landscape treatments both behind within the courtyard areas. A landscaped setback is provided, irrespective of whether the space is a communal area or a combination of communal and private open space. Further, the provision of adequate private open space areas is considered preferable to strict compliance with the DCP control in this instance.

Location of waste storage areas

DCP 2005 permits a waste storage area to be located forward of the front building line provided it is setback a minimum 1.5 metres from the primary and secondary frontages, and the setback area is planted with native vegetation. The proposed waste storage area is located 910mm from the Chapel Road property boundary. However, the entrance to this area is oriented away from the street to allow landscaping between the front property boundary and the structure. This treatment would be a better outcome than a compliant structure with access direct to Chapel Road.

Residential Flat Design Code

The proposal is consistent with the “Rules of Thumb” contained within the RFDC, with the following exceptions.

Communal open space area

The RFDC suggests the area of communal open space required should generally be at least between 25 and 30 percent of the site area. The proposed development provides 414m² or 23.1%. This is a minor departure of a scale that will not have a significant bearing on the level of amenity afforded to residents within the development, particularly given the over- supply (almost double) of deep soil zones within the development. The non- compliance could be remedied by reducing the size of the ground floor courtyards for some of the residential units (as some areas are double the required amount). However, this would not provide so significant a gain for the users of the communal space to warrant reduction of the private courtyard areas.

The RFDC recommends an area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, of 25m², with a minimum preferred dimension in one direction of 4 metres. The ground floor apartment private open space depth varies between 2.5m and 7.7m. Courtyard size varies between 14.57m² and 50.4m². Three of the eight ground floor units provide less than the required area, with Units 6, 7, and 8 providing 23.79m², 21.17m², and 14.57m² respectively. The departure for Units 6 and 7 are minor in nature and likely imperceptible to the tenant of that unit. The reduced area for Unit 8 is offset by the easy access available from the Unit to the communal open space area adjacent to the private area.

Access

In order to avoid creating pedestrian/ vehicle conflicts or to create expansive driveway areas for pedestrians to cross, the RFDC recommends limiting the width of driveways to a maximum of 6 metres and locating vehicle entries away from main pedestrian entries and on secondary frontages. The proposal provides for significant separation between the driveway (located on DeWitt Street) and the pedestrian entry (located on Chapel Road). The driveway is 500mm wider than recommended but has been done so in order to permit queuing of a vehicle at the top of the driveway ramp.

The difference between the recommended and provided widths is minimal and the wider driveway is a desirable outcome in traffic management terms.

It can be concluded from the preceding assessment that each of the departures from the rules of thumb are acceptable in this instance.

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

At the time of the lodgement of this development application the Bankstown Local Environmental Plan 2001 (BLEP 2001) was in force while a draft local environmental plan had been publicly exhibited. Pursuant to the matters for consideration contained in Section 79C(1) of the EP&A Act 1979, the provisions contained within each of these EPIs are required to be considered in the assessment of the subject development 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 applications lodged on or after the 5th March 2015. As the subject development application was lodged with Council prior to this date, the application is required to be considered against the provisions contained within BLEP 2001 and the exhibited draft.

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. Accordingly, the same height limit (and same extent of variation from the height limit) that applies under LEP 2001 also applies under LEP 2015.

Approval of the development would not be inconsistent with the intent and purpose of the instrument.

Planning agreements [section 79C(1)(a)(iiia)]

There are no planning agreements applicable to this development application.

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

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

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

The likely impacts of the development have been discussed generally in the section of the report that assesses the application against the relevant planning controls. That assessment found that, in terms of height, the proposal is compatible with the character of the area.

In terms of the other aspects of the building, in particular, its general bulk, presentation, materials and finishes, car parking provisions and access arrangements, the proposal is considered to be an appropriate development, consistent with the existing and likely future character of the area.

The application has been referred to Council's Tree Management Officer, Development Engineer, Building Surveyor, Resource Recovery Team and Traffic Engineers. No issues have been raised in relation to the proposal, with the exception of some minor concerns from Council's Traffic Engineer regarding the functioning of the traffic management measures within the basement, and the potential of these systems to fail and impact on the viability of the proposed one way basement ramp system. Council's Traffic Engineers have advised that this matter can be addressed by way of a deferred commencement condition. It is considered that resolution of this issue is a technical matter, and that this can be appropriately dealt with by way of a deferred commencement condition.

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

Based on the assessment detailed in earlier sections of this report, it is considered that the site is suitable for the development.

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

The application was advertised in the local newspaper and notified to adjoining and affected residents on two occasions. The first notification period was for 21 days from 11 June 2014 to 1 July 2014. Two submissions were received from the same author, who raised concerns regarding loss of sunlight, reduced property values, loss of privacy, parking and traffic impacts, the appearance of the development and acoustic impacts during and post construction.

Following the receipt of amended plans, the application was again advertised and notified for a further period from 4 March 2015 to 21 March 2015. A further submission was received from the original objector and an additional submission was received from a second party. No new issues were raised in either of the additional submissions.

Objection: *Loss of sunlight*

Comment: The proposal will result in some loss of sunlight to the lower level units in the southern adjoining development known as 127 Chapel Road. That building contains 4 units per level over three levels. Each unit is a corner unit, with bedrooms addressing the east or west elevations and the living room areas and associated balconies located in the central portion of the building, addressing either the north or south elevation. The building has two units per level (6 in total), with north facing living rooms and associated balcony areas about the mid point of the northern elevation.

The three north- western corner units will still be able to achieve three hours solar access at all levels, as will the upper level north eastern unit. The two lower level north eastern units will be affected throughout the majority of the day between 9am and 3pm mid-winter. It should be noted that between 8am and 9am and between 3pm and 4pm, solar access is available to these units. Compliance with the 9am to 3pm standard could not be achieved without significant modification to the building form and any resultant improvement to the existing level of solar access would be minimal, as these units are partly overshadowed by existing mature vegetation located within the site of 127 Chapel about the common boundary with the development site.

Given the existing situation, the compliant separation distances under the provisions of the Residential Flat Design Code, and the maintenance of sunlight in the early morning and late afternoon periods, it is considered that refusal of the application on the basis of loss of solar access to two units between the hours of 9am and 3pm is not sustainable.

Objection: *Reduced property values*

Comment: No evidence has been submitted to suggest that the proposed development will affect property values.

<i>Objection:</i>	<i>Reduced privacy</i>
<i>Comment:</i>	At all points of the proposed development, the building maintains separation distances to the southern adjoining development as recommended in the Residential Flat Design Code. Further, the proposal only provides one balcony at the lower three levels which addresses the southern adjoining property and at this point, separation distances exceed the recommended distances nominated in the Code.
<i>Objection:</i>	<i>Parking and traffic impacts</i>
<i>Comment:</i>	The proposal satisfies car parking requirements and Council's Traffic Engineer has reviewed the proposal and recommended approval on a deferred commencement basis.
<i>Objection:</i>	<i>Appearance of the development</i>
<i>Comment:</i>	The proposed development is considered to be an appropriate development for the site, both in terms of the bulk and scale of the development and its overall design and finishes.
<i>Objection:</i>	<i>Acoustic impacts</i>
<i>Comment:</i>	<p>It is inevitable that there will be some acoustic impacts during construction activities. However, conditions of consent deal with the construction hours and generation of offensive noise.</p> <p>Post construction, there is nothing to suggest that the acoustic impacts of the development would be any different to any other residential flat building typically found in the zone. In fact, the generally northern, western and eastern orientation of the development, in order to achieve compliant levels of solar access when assessed against the RFDC, minimises the number of living spaces that directly address the southern boundary</p>

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

On the basis of the assessment provided in this report, it is considered that the proposal is in the interest of the general public.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, and the relevant state and local planning controls and codes. On the basis of that assessment, which is provided in this report, the proposed development is considered to be an appropriate development for the site, despite the non-compliance with the height controls and minor non compliances with the provisions of LEP 2001 and DCP 2005 and the Residential Flat Design Code.

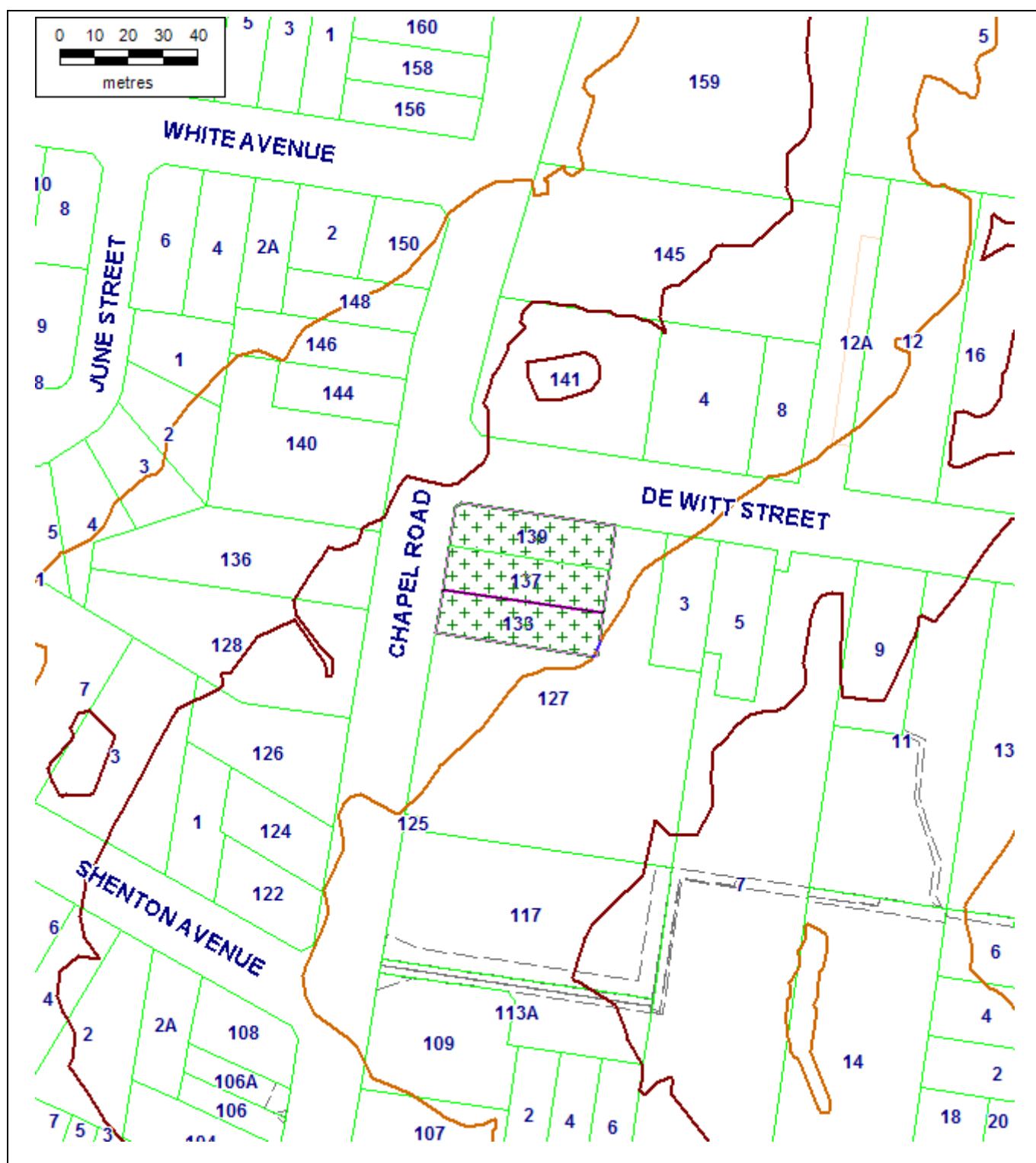
The assessment in this report has shown that the non- compliances are minor both numerically and in terms of their impact on adjoining development, the surrounding area, and the amenity of future residents of the development.

Accordingly, it is recommended that the application be approved on a deferred commencement basis, with satisfactory resolution of basement manoeuvring being required to be resolved prior to the issue of an operational development consent.




RECOMMENDATION

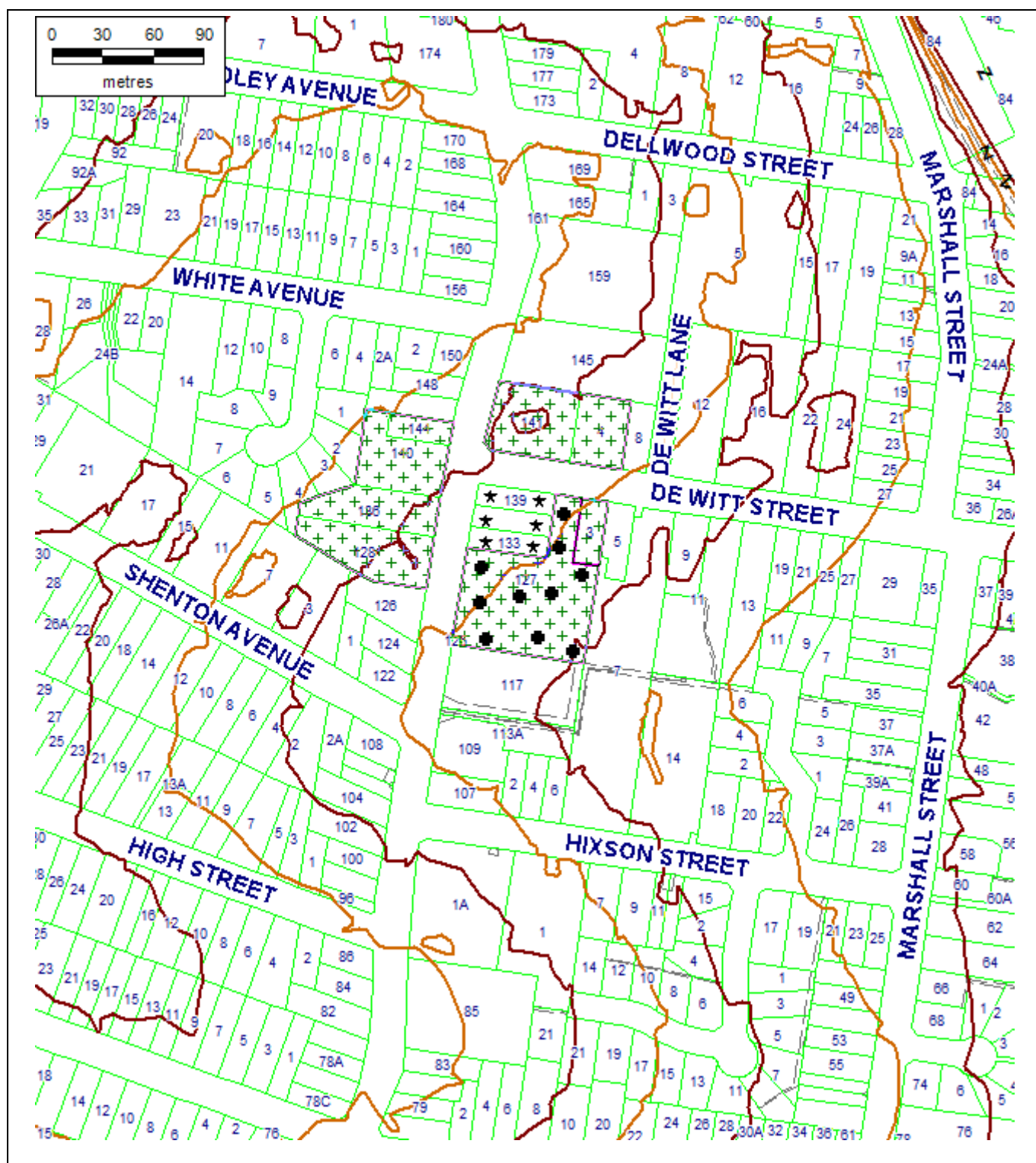
It is recommended that:

- A. The objection submitted under the provisions of State Environmental Planning Policy No. 1- Development Standards in relation to Clause 30B of Bankstown Local Environmental Plan 2001 be supported; and
- B. The application be approved on a deferred commencement basis, with satisfactory resolution of basement manoeuvring and basement traffic management being required to be resolved prior to the issue of an operational development consent.





133-139 Chapel Road, Bankstown

	<p>TARGET PROPERTY</p>	 <p>1:1,670 31 July 2015</p>	



133-139 Chapel Road, Bankstown

★	TARGET PROPERTY	 1:3,387 31 July 2015	
+	NOTIFIED PROPERTIES		
●	OBJECTOR		

