

<b>ITEM</b>	<b>17-19 Rookwood Road, Yagoona Demolition of Existing Structures and Construction of a Four (4) Storey Residential Flat Building Comprising of Forty-One (41) Units in Two Buildings with Basement Parking under State Environmental Planning Policy (Affordable Rental Housing) 2009</b>
<b>FILE</b>	<b>DA-303/2015 [JRPP2014SYW069]</b>
<b>ZONING</b>	<b>R4 – High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>1 April 2015</b>
<b>APPLICANT</b>	<b>Maisan Group P/L</b>
<b>OWNERS</b>	<b>Molenda and Maisan Group P/L</b>
<b>SITE AREA</b>	<b>1934.8 m<sup>2</sup></b>
<b>COST OF WORKS</b>	<b>\$8,659,208.00</b>
<b>AUTHOR</b>	<b>Development Services (Ian Woodward)</b>

### **SUMMARY REPORT**

This matter is reported to the Sydney West Joint Regional Planning Panel in accordance with the provisions of State Environmental Planning Policy (State and Regional Development) 2011, as the proposed development incorporates affordable housing and has a capital investment value (CIV) in excess of \$5 million. The proposed development has an estimated CIV of \$8,659,208.00.

Development Application No. DA-303/2015 proposes the demolition of existing structures and construction of a four (4) storey residential flat building comprising of forty-one (41) units in two (2) buildings with basement car parking under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

DA-303/2015 has been assessed against the following:

- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- *Deemed State Environmental Planning Policy (SEPP) – Georges River Catchment;*
- *Bankstown Local Environmental Plan, 2015;*
- *Bankstown Development Control Plan, 2015;*
- *Residential Flat Design Code; and*

- *Bankstown Development Engineering Standards.*

The application fails to comply in regards to minimum site width and maximum permitted height of buildings as contained within the Bankstown Local Environmental Plan, 2015. The application also proposes variations to the “rules of thumb” contained in the Residential Flat Design Code, particularly in relation to building separation, building depth, communal open space, and apartment layout.

Whilst there are a number of variations proposed in this application, they are minor in nature and on balance, are considered worthy of support, given the site’s context.

The application was advertised and neighbour notified for a period of twenty-one (21) days. One (1) letter of objection was received during this period, which raised concerns relating to minimum side and rear setbacks, solar access and overshadowing, loss of privacy and property values.

### **POLICY IMPACT**

This matter has no direct policy implications. The proposed variations to Council’s planning controls relate to minimum allotment width and maximum permitted height. The proposed variation to height is capable of being addressed by way of appropriate conditions of consent that will reduce the extent of the breach, leaving the proposed allotment width variation as the only substantial variation that will remain.

The proposed breach of the height limit is a product of the narrow nature of the site, coupled with its long depth and the fall that occurs throughout this depth, which results in an elongated building form. The applicant has sought to minimise the extent and impacts of the breach of the height limit via stepping of the floor levels through the site. The resultant variations are minor in nature and consequence and are considered to be driven by the characteristics of the site. A condition of development consent is proposed in order to reduce the height of the development by the removal of a roof top terrace area. As the breach was caused by lift and stair access to this area, only a typical lift over run will remain, with a resultant minimal variation (maximum 500mm) to the height controls.

The minimum required allotment width of 30 metres for residential flat building development is unable to be achieved in this instance, due to the inability of the site to consolidate with neighbouring development to the north and south, given the substantial nature of the developments on those properties, and their young age. That leaves the options for the site being to not develop in the foreseeable future, to not develop to its highest use, or to develop to its highest use whilst supporting a variation to the minimum allotment width requirement. The consequences of the proposed variation are considered to be well managed in the design of the development and accordingly the variation is recommended for approval.

Overall, the proposed variations to the provisions of LEP 2015 are considered to have minimal policy implications.

With regard to the proposed variations to the “rules of thumb” established under the Residential Flat Design Code (RFDC), these too are a result of the elongated nature of the site and its position between a newly constructed residential flat building to the north and a recently constructed villa home development to the south. The consequences of strict compliance with the RFDC would significantly impact the ability to develop the site for the purpose for which it is zoned.

The applicants design has sought to offset the numerical non-compliances through adequate design responses to the proposed breaches. Accordingly, the proposed variations to the rules of thumb under the RFDC are considered acceptable.

### **FINANCIAL IMPACT**

This matter has no direct financial implications.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions.

# **DA-303/2015 SECTION 79C ASSESSMENT REPORT**

## **SITE & LOCALITY DESCRIPTION**

The subject sites are known as 17 and 19 Rookwood Road, Yagoona and are zoned R4 – High Density Residential under the Bankstown Local Environmental Plan, 2015. Consolidated, the site has a total area of 1934.8m<sup>2</sup> by title (1938.6m<sup>2</sup> is the area claimed by the applicant) and a frontage of 24.2 metres to Rookwood Road.

The sites are currently occupied by single storey dwellings with pitched roofs and ancillary structures, including a detached outbuilding in the rear private open space area of 19 Rookwood Road. A number of small trees stand on the site, with larger specimens located towards the rear of both lots. The site has a fall from the rear (east) to the Rookwood Road (western frontage) of 3.5 metres.

Development surrounding the site consists of the following:

### ***North***

Immediately to the north of the site is 21-23 Rookwood Road Yagoona, which has been developed for a part three/ part four storey residential flat building consisting of thirty-two (32) units with basement level car parking and associated landscaping, approved on 9 November 2010 (DA-648/2010). Land further to the north of the site has been developed for a mix of villa home development and single residential dwellings, up to the intersection of Rookwood Road and Stacey Street. Beyond this intersection is the Chullora industrial area.

### ***South***

Land to the south of the site, known as 13-15 Rookwood Road Yagoona, has been developed for a 6 unit villa home development, Consent was issued on 6 January 2003 (DA-566/2002). Villa home development exists beyond this site up to the intersection of Rookwood Road and Davis Lane. Between Davis Lane and the Hume Highway is a commercial building occupied by Versatile Ceramics. Council is currently assessing a development application (DA988/2015) for the redevelopment of this site for the purposes of a mixed commercial/residential flat building comprising of a total of 127 residential units. That development application will be required to be reported to the Sydney West Joint Regional Planning Panel for determination.

### ***East***

Land to the east of the site, known as 322 Hume Highway, has been developed for Bankstown North Public School. That site fronts Stacey Street and, together with the Sydney Water tower (a heritage item) located at the corner of Hume Highway and Stacey Street, completes the street block.

### ***West***

Land to the west of the site between Llyod Street to the north and George Street to the south, comprises a mix of villa home and single residential dwellings. Land to the south of George Street on the western side of Rookwood Road, has been developed for commercial purposes.

Image 1. Arial photo of the subject site and surrounding area



## **PROPOSED DEVELOPMENT**

The Development Application proposes demolition of existing structures, consolidation of two (2) lots and construction of a four (4) storey residential flat building across two separate building modules consisting of the following unit schedule:

- Studio: 1 x units
- 1 bed: 10 x units
- 2 bed: 26 x units
- 3 bed: 4 x units

The proposal also incorporates:

- Basement level parking containing thirty-eight (38) residential and visitor spaces, including two (2) disabled access spaces;
- Associated landscaping
- Communal roof terrace

The Statement of Environmental Effects submitted with the development application states that Strata Title subdivision is proposed upon completion of the project. It is assumed that this means by way of a separate application, as there are no strata subdivision plans submitted with the application, and no subdivision is indicated on the submitted development application form.

Vehicular access to the basement level car park is provided from Rookwood Road via an entry/exit driveway located at the south western portion of the primary frontage. The western elevation of the proposed development is produced below:

Image 2. Western (Rookwood Road) elevation



Twenty-two (22) of the proposed units will be allocated as Affordable Rental Housing Units, which equates to 46.2% of the total gross floor area of the development. A condition of consent will be imposed to ensure that those units are allocated as affordable rental housing units, supported by way of a restriction of title.

## **SECTION 79C ASSESSMENT**

The proposed development has been assessed pursuant to Section 79C of the *Environmental Planning and Assessment Act, 1979* and the results of that assessment follow.

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

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

Under the provisions of Clause 7 of SEPP 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.*

The development site has a history of use for low density residential purposes and the subject application proposes to continue the use of the site for residential purposes. There is no evidence to suggest that the sites have been subject to any contaminating land uses.

The subject sites are considered suitable for the proposed residential use and therefore, satisfy the provisions of SEPP 55.

**State Environmental Planning Policy – Affordable Rental Housing) 2009 (ARHSEPP)**

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) aims to *'facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards'*. Division 1 (Clauses 10 to 17 inclusive) of the ARHSEPP applies to development for the purposes of a residential flat building. An assessment of the proposal against the applicable Clauses of Division 1 is provided below.

Clause	Requirement	Proposal	Complies
10 - Development to which Division applies	(1)(a) the development concerned is permitted with consent under another environmental planning instrument, and	The proposal is defined as 'Residential Flat Building' which is permitted with Council consent under the BLEP 2015 in the R4 High Density Residential Zone.	Yes
	(1)(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <u>Heritage Act 1977</u> .	The site does not contain a heritage item nor is it in the vicinity of a heritage item. The Sydney Water water tower is located 224m south east of the site and is separated from the site by the public school located immediately to the east of the site.	Yes
	(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.	The site is located within 60 metres of the Rookwood Road M92 bus stop, and within 255m of a Bus Stop on Hume Highway which satisfies 'accessibility' requirements under the AHRSEPP.	Yes



	<p>(3) Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.</p>	<p>The site is located within 60 metres of the Rookwood Road M92 bus stop, and within 255m of a Bus Stop on Hume Highway which satisfies 'accessibility' requirements under the AHRSEPP.</p>	Yes
11, 12 (Repealed)	-	-	-
13 Floor space ratios	<p>(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</p>	<p>More than 20% of the gross floor area is to be used for the purpose of affordable housing.</p> <p>The units that have been identified to be used as affordable units are as follows:  Ground floor: G02, G04, G05, G07, G08, G10  Level 1: 102, 103, 105, 106, 108, 109, 111  Level 2: 202, 203, 205, 206, 208, 209, 211  Level 3: 306 and 309</p>	Yes
	<p>(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the</p>	<p>46.2% of the floor space of the gross floor area is to be used for affordable rental housing. Accordingly, the maximum permitted FSR for this site is 1.46:1. The proposed floor space ratio is a compliant 1.45:1.</p> <p>A condition requiring this to be shown on the plans prior to construction certificate has been imposed as well as a condition prior to the issue of any occupation certificate requiring the restriction be placed on the title for 10years.</p>	Yes



	<p>development that is used for affordable housing is 50 per cent or higher, or</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:  AH is the percentage of the gross floor area of the development that is used for affordable housing.  <math>Y = AH \div 100</math></p>		
14 Standards that cannot be used to refuse consent	<b>(a) Repealed</b>	-	-
	(b) Site Area Minimum 450sqm	1934.8m <sup>2</sup>	Yes
Site and solar access requirements	(c) Landscaped Area at least 30 per cent of the site area is to be landscaped	Requires 580.4 m <sup>2</sup> of landscape area  Proposed 442.4 m <sup>2</sup> of landscape area on the ground	No
	(d) Deep Soil Zone 15% of total site area and (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area	290.22 m <sup>2</sup> of deep soil zone required  66.7 m <sup>2</sup> of deep soil provided within the front setback (dimension of 3m achieved)  129.3 m <sup>2</sup> of deep soil provided within the rear setback (dimension of 3m achieved)  28.6m <sup>2</sup> of deep soil in the Northern side setback (dimension of 3m achieved)  97m <sup>2</sup> within the southern side setback provided (does not achieve a dimension of 3m)  Total Deep soil on site – 321.6m <sup>2</sup>  Total deep soil with dimension of 3m 224.6m <sup>2</sup>  It is considered that the site provides sufficient deep soil planting even though the dimension of 3m is not met in all areas	Yes
	(e) Solar Access	The proposal achieves 2 hours of	No, however

	Min 70% of dwellings to receive min 3hrs solar access between 9am and 3pm in mid-winter	<p>sunlight to 26 units between 8am - 4pm, with an additional 2 units meeting the requirement for solar access via the installation of skylights to units 304 and 307.</p> <p>Ground floor unit G07 and G08 have been conditioned to be joined together to make one unit rather than two separate units.</p> <p>This will reduce the overall number of units within the development to 40.</p> <p>Compliance is therefore achieved as 28/40 (70%) units will receive the required minimum of solar access between 8 am -4 pm which is considered satisfactory.</p>	solar access complies with the requirements of the RFDC and is considered satisfactory on that basis.
<b>(2) General</b>	(a) parking 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,	<ul style="list-style-type: none"> <li>• 1 bed x 10 (0.5 spaces each unit) = 5 spaces</li> <li>• 2 bed x 25 (1 space each unit) = 25 spaces</li> <li>• 3 bed x 5 (1.5 spaces each unit) = 7.5 spaces</li> </ul> <p>Total spaces required = 37.5 (38)</p> <p>Total spaces provided = 38</p>	Yes
	(b) dwelling size <ul style="list-style-type: none"> <li>• 50 square metres in the case of a dwelling having 1 bedroom, or</li> <li>• 70 square metres in the case of a dwelling having 2 bedrooms, or</li> <li>• 95 square metres in the case of a dwelling having 3 or more bedrooms.</li> </ul>	All units meet the minimum requirements	Yes
15 Design Requirements	Consideration of Seniors Living Policy: Urban Design Guidelines for Infill Development	The Seniors Living Policy is not applicable as <a href="#">State Environmental Planning Policy No 65—Design Quality of Residential Flat Development</a> applies	N/A
16A Character of Area	A consent authority	The site is zoned R4 – High Density	Yes

	must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the area.	<p>in which residential flat buildings are permitted. The development complies with the maximum 13m Height of buildings limit specified, with the exception of the proposed lift over run and stair access, which will be deleted, subject to conditions recommended to be imposed.</p> <p>The two buildings proposed as part of this application are considered to be compatible with the existing character of the locality and reflective of desired future character given the R4 High Density Residential zoning and 13m HOB set under the BLEP 2015.</p> <p>The proposal is considered to be sympathetic to existing development and compatible with the future desired character of the area.</p>	
17 Must be used as affordable housing for 10 years	The dwellings are to be used for the purposes of affordable housing and managed by a registered community housing provider	A condition of consent will be imposed to ensure compliance with this clause.	Yes
18 Subdivision	Land on which development has been carried out may be subdivided with consent of the consent authority	Subdivision is not sought as part of DA	N/A

As demonstrated above, the proposal complies with all of the standards contained within Division 1 (Clauses 10 to 17 inclusive) State Environmental Planning Policy (Affordable Rental Housing) 2009.

Clause 13 of ARHSEPP permits a floor space ratio (FSR) bonus for infill affordable housing development which varies according to the proportion of proposed development to be used for affordable housing purposes. The applicant has nominated 22 of the proposed 41 units, or 46% of the gross floor area of the development to be used for this purpose. A condition of development consent will be imposed to ensure this provision of affordable rental housing floor space.

In accordance with Clause 4.4 of the BLEP 2015, the site would normally be subject to a maximum FSR of 1:1. Under the provisions of Clause 13 of the ARHSEPP, the proposal is subject a maximum FSR of 1.46:1.

The application proposes a total FSR of 1.45:1, which complies with the applicable floor space ratio.

The application cannot be refused on the basis of landscaped area if 30% of the site is landscaped. It follows that if less than this is landscaped, then either a lesser standard can be considered or refusal of the application on the basis of inadequate landscaped area can be considered.

The 30% landscaped provision would require 580.4m<sup>2</sup> of landscape area. The development proposes 442.4m<sup>2</sup> of landscape area on the ground. Other sections of this report deal with the general amenity provided to residents, private and communal open space provisions, and the proximity of the site a major public open space asset. On balance, and given the site's context in a "High Density Residential" environment, as per the site's zoning, the level of landscaped area provided is considered to be acceptable.

### **Deemed State Environmental Planning Policy (SEPP) – Georges River Catchment**

It is considered that the proposed development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies.

### **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 the assessment of applications under which this is considered.

The SEPP requires development of the nature proposed in this application to be assessed against ten (10) design quality principles and the matters contained within the publication "*Residential Flat Design Code*". As such, the following considerations has been given to the requirements of SEPP 65.

#### **1. Context**

The site is located within the R4 – High Density Residential Zone, the objectives of which seek:

- *To provide for the housing needs of the community within a high density residential environment;*
- *To provide a variety of housing types within a high density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The immediate surrounding area is characterised by a mixture of residential development types, ranging from single dwelling development to a four storey residential flat development immediately to the north of the site. Despite the non-compliances which exist with the proposal, which will be addressed later in this report, the proposal is considered to be compatible with the existing and likely future character of the area.

## **2. Scale**

The proposed development is compliant with the applicable floor space ratio and generally consistent with the applicable height standard, with the bulk of the building sitting below the 13 metre height limit, whilst the lift over run protrudes beyond the height limit. This is a small structure in terms of its area which does not contribute to the bulk of the building and accordingly, it is considered that the scale of the development is consistent with that envisaged by the planning controls.

## **3. Built form**

As stated above the proposed development is considered to be consistent with the desired future character for the area in terms of its bulk and scale. The design of the development is appropriate for the site, containing two main building structures, which provides for a visual break. The proportions of the buildings and their overall design and treatment are considered acceptable.

## **4. Density**

The proposed development has a total FSR of 1.45:1 which complies with the maximum permitted 1.46:1 floor space ratio.

## **5. Resources**

The development is subject to State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and requires the submission of a valid BASIX Certificate. The development is accompanied by a Multi Dwelling BASIX Certificate No. 617011M\_02 which accompanied the revised plans, identified as Issue B, which achieve satisfactory performance with respect to energy efficiency, water conservation and thermal comfort.

The development makes adequate provision for open space, as discussed previously in this report, and satisfies natural ventilation and solar access requirements. The proposal also provides a mix of housing choice, including two and three bedroom units, including two adaptable units (G09 and G10), contributing to the range of housing affordability.

## **6. Landscaping**

The development provides a small landscaped buffer within the primary setback and a total of 586.66sqm of landscaping and open space both on the ground level which is accessible between the two residential blocks and communal open space provided upon a roof terrace.

## **7. Amenity**

The development satisfies natural ventilation and solar access requirements and provides a suitable mix of unit types. Solar access and building separation within the development are acceptable. The proposal achieves suitable cross ventilation and provides a sustainable building, reducing overall energy requirements and improving residential amenity.

## **8. Safety and security**

Physical and visual barriers provide separation between public and private spheres. Residential dwellings which address Rookwood Road, as well as provision of intercom and security systems will allow for surveillance to be achieved.

## **9. Social dimensions**

The site is located within the R4 – High Density Residential zone and the proposal provides an appropriate mix of unit sizes and types.

## **10. Aesthetics**

The overall appearance of the proposal is considered appropriate.

### **Residential Flat Design Code**

Assessment of the application against the provisions of the Code follows:

<b>'RULE OF THUMB'</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>Building depth</b> 10m – 18m is appropriate. If greater than 18m then good solar access and ventilation must be achieved.	Building depth for tower 1 (western tower) is 29.9m and tower 2 (eastern tower) is 26.1m. Deepest apartments are 12.075m, including single aspect apartments.	No. However, the Code allows greater depths subject to solar access and ventilation objectives being met. The Buildings are designed off a central north-south core, with single-aspect and corner apartments off either side (E and W). Solar Access and natural ventilation have been achieved with conditions. The floor to ceiling heights propose meet the minimum requirement for 2.7m to allow for natural ventilation.

'RULE OF THUMB'	PROPOSED	COMPLIANCE
<p><b>Building separation</b>  12m separation between buildings over 3 storeys and up to 4 storeys.  18m separation between buildings over 4 storeys and up to 8 storeys.  24m separation between buildings over 8 storeys.</p>	<p>A 5.8m setback to the eastern boundary (rear boundary) is provided from Tower 2.</p> <p>A 6m setback to the western boundary (fronting Rookwood Road) is provided from Tower 1.</p> <p>An internal separation distance between Tower 1 and 2 is provided at 12m.</p> <p>To the north and south a side setback of 3m to a building/balcony wall has been provided for both Tower 1 and 2.</p>	<p>See discussion below</p> <p>To the North, the existing building on the adjoining property has a side setback of varying from 4.5m for the front Tower facing Rookwood Road and 7m to the side setback for the rear Tower when measured off the survey plan, providing a separation ranging from 7.5m-10m 10m rather than the required 12m.</p> <p>To the south, the adjoining existing villa development has a setback to the common boundary of 2.5m to 5m, making the separation distances between 5.5m and 8.5m.</p> <p><b>This issue is discussed following this table</b></p>
<p><b>Communal open space</b>  25% – 30% of the site area is to be communal open space.</p>	<p>The proposal has been designed and Communal open space has been proposed on the roof of Tower 2 and on the ground floor between Tower 1 and 2.</p>	<p><b>No</b></p> <p>Conditions of consent are proposed for the ground floor units to redistribute the open space between the Ground floor terrace units to achieve compliance with the Private Open Space requirements for ground floor units. This will leave 81m<sup>2</sup> communal open space between the two building elements.</p> <p>The Roof top Communal open space is also recommended (via condition) to be removed and a condition imposed reducing the height of building and reducing the lift overrun in this area.</p> <p>Imposing of the conditions to reduce the overall building height, remove the communal open space from the roof top of the rear building and the reduction in the communal open space on the ground level will result in no significant communal open space being provided for on the site.</p> <p>The scale of the development (i.e. 40 units) does not warrant a dedicated communal open space area, particularly when generously sized</p>



		private open space areas to ground floor terrace units can be achieved and when accessibility to public open space is taken into account. The development site is located a walkable distance being within 300m from Graf Park, which is located at 29 George Street.
<b>Apartment layout</b> Single aspect apartments should be no more than 8m from a window.  Back of kitchen no more than 8m from a window.	The depths of single aspect apartments are 12.075m.  The kitchens are within 8m of a window.	Yes. Non-conforming ('deepest') parts of the affected apartments contain dwelling entries and bathrooms, and these units are at least 4m in width through the living areas, therefore no loss of amenity would result. All units proposed have kitchens within 8m of a window and still achieve the amenity intent of the code.
<b>Apartment size</b> Studio - 35 m <sup>2</sup> 1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 95m <sup>2</sup>	Studio- nil studios provided (subject to conditions) 1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 95m <sup>2</sup>  1 Studio was proposed (G07), however a condition has been imposed to amalgamate unit G07 with G08, thus creating a 3 bedroom unit 114.1m <sup>2</sup> to form part of G08, in order to satisfy solar access requirements. This will not affect the proportion of affordable rental housing floor space, as both units were nominated as ARH units.	Yes.
<b>Balcony depth</b> Min. 2m depth to primary balconies.	All primary balconies have minimum 2m depth.	Yes.
<b>Private Open Space (POS)</b> Ground floor/Podium apartments to have 25m <sup>2</sup> within min. dimension of 4m	All ground floor apartments have been conditioned as marked on the plans attached to provide a POS area in the form of a terrace/courtyard ranging from 28.1m <sup>2</sup> to 88.270m <sup>2</sup> with a minimum dimension of 4m.	Considered acceptable.
<b>'RULE OF THUMB'</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>

<b>Floor to ceiling heights</b> Min. 3.3m ground floor and 2.7m for other floors. If variation is sought then satisfactory daylight access must be demonstrated.	Floor-to-ceiling heights are 2.7m to all residential floors. No commercial floor space is proposed as part of this application.	Yes.
<b>Internal circulation</b> Max. 8 units accessed from a single corridor.	Minimum 4 to maximum 6 apartments accessed from a single corridor.	Yes
<b>Solar access</b> 70% of units should receive 3hrs solar access between 9am – 3pm midwinter.  Limit the number of single aspect apartments with a southerly aspect to a maximum of 10%.	<p>The proposal achieves 2 hours of sunlight to 26 units between 8am - 4pm, with an additional 2 units meeting the requirement for solar access via the installation of skylights to units 304 and 307 (as proposed by the applicant).</p> <p>It is considered satisfactory to consider solar access between 8am – 4pm, as Council's DCP measure of solar access takes into account these additional periods.</p> <p>Ground floor unit G07 and G08 have been conditioned to be joined together to make one unit rather than two separate units to achieve solar access requirements.</p> <p>Compliance is therefore achieved as 28/40 (70%) units will receive the required minimum of solar access between 8 am -4 pm.</p> <p>No single aspect apartments are proposed with a southerly aspect.</p>	Solar access complies, subject to the conditions referred to in the adjoining column. It is considered reasonable to apply the 2-hour requirement, especially considering orientation of site, context of dense urban character of the locality, and as the adjoining development to north is an east-west running, 3-4 storey building.
<b>Natural ventilation</b> 60% of units to be naturally ventilated.  25% of kitchens to have access to natural ventilation.	<p>At least 27 units (67%) are naturally cross-ventilated.</p> <p>32% of kitchens have a window.</p>	Yes

The above table identifies some minor non- compliances with the provisions of the Code, which are addressed in the body of the table. These non- compliances relate to building depth and apartment layout. The issues which require further discussion (building separation and communal open space), are discussed in the following section.

## ***Building Separation***

### *Internal Separation*

The two towers in the proposed development are separated by a distance of 12m internally at the centre of the site. The separation is considered to be appropriate with regard to visual and acoustic privacy, and assists in ensuring solar access can be achieved to at least 70% of units, as required under the RFDC.

### *External separation (to site boundaries)*

The application proposes a side setback to the north and south of 3m, to the east a rear set back of 5.8m is provided with a front setback of 6m provided to the west fronting Rookwood Road.

It is typically considered appropriate for the proposed development to 'share' the building separation requirements stipulated in the rule of thumb in the RFDC (i.e. provide half of the building separation distances), in order to ensure the development potential of the site is not sterilised by the developments existing to the north and the south.

However, in this instance, there are two existing, recently constructed building forms on these adjoining properties. This will result in separation distances to these buildings of between 7.5 metres and 10 metres to the northern adjoining development and between 5.5 metres and 8 metres to the southern adjoining villa home development.

It could be said that the existing development to the north unfairly burdens the subject site by not carrying its "share" of the separation distance for its full depth. Further, the southern adjoining development was the subject of a development application that was determined prior to this area becoming rezoned to its current High Density Residential zoning (at the time of approval of DA-566/2002, villa home development was the highest density permitted in the then 2(a)- Residential A area). Achieving the separation distances specified in the code would result in a building of width of approximately 6 metres, which is not a realistic outcome for the site. Accordingly, the outcome for the site is either:

1. Not to develop until such time as separation distances can be achieved via site consolidation. Given the scale, nature, and age of the developments adjoining the site, this could be a substantial time frame; or
2. To develop the site for a lower yield than what the zoning and density provisions in LEP 2015 and SEPP ARH permit; or

3. To permit the land to be developed in accordance with the zoning and density provisions of the applicable planning instruments, noting that a variation to separation distances will need to be considered.

The last option is considered to be the most appropriate, provided the intent of the separation distance controls can be met. The separation distance controls serve to allow adequate spatial relief, sunlight access, ventilation, privacy retention, and view retention.

Previous tables have documented the proposal's compliance with solar access and ventilation requirements, and all windows located on the northern and southern elevations serve bedroom and bathroom areas and have been provided with sill heights of 1.5 metres. Whilst there will be some loss of general outlook from neighbouring development, this would be the case with any residential flat building construction. None of the views can be considered to be iconic views, and the additional view loss resulting from the reduced separation distances would be minimal.

In terms of loss of direct sunlight to the adjoining villa home to the south, neither the RFDC or Council's DCP 2015 contain controls relating to solar access to neighbouring development. However, as a guide for what may be considered to be an appropriate measure of solar access, the two hour standard that applies to dense urban areas under the RFDC can be considered together with the spread of hours of 8am to 4pm, as per the provisions of Council's DCP for solar access to a development site.

Analysis of the floor plans of the adjoining villa home development and the proposed development, suggest that of the 6 villa units to the south of the site, 4 will receive three hours direct sunlight to a living area and 2 will receive two hours direct sunlight to a living area. This is considered to be an acceptable outcome.

Having regard to the above, it is considered reasonable to relax the building separation requirements in this instance.

### ***Communal Open Space provision***

A communal open space area has been provided within the 12 metre separation distance that has been proposed between the two building forms. However, this is to the detriment of the ground floor units that front this space, as they have not been provided with sufficient private open space areas.

The communal open space area is proposed over a basement car park, and as such, will have limited soil depth. It will also have an element of overlooking from as many as 23 units.

An additional communal open space area has been proposed on the roof top level of the rear building. However, this gives rise to potential privacy impacts for neighbouring development, both visual and acoustic, and requires lift and stair access, which breaches the maximum permitted height limit. Further, the usability of this area would be questionable, as it is more exposed to the elements given its elevation, particularly sun and wind and the negative impacts associated with the provision of this area are considered to outweigh the potential minimal benefit.

This would leave two smaller areas of communal open space. However, the site is located within close proximity of Graf Park, which is a large sporting facility approximately 300 metres to the west of the site, and all private open space areas would be compliant with the provisions of the Code.

This is considered a preferable outcome.

**State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)**

Schedule 3 of the Infrastructure SEPP lists types of developments that are to be referred to Roads and Maritime Services (RMS) due to their size or capacity and the potential for impacts on the local road network (including classified roads). The proposed development does not exceed the thresholds listed in Schedule 3 of the SEPP however the proposal seeks direct access onto a classified road and has been referred to RMS for comment (Pursuant to Section 138 of the Road Act, 1993).

The RMS has reviewed the proposed development and raised no objection, subject to certain conditions of consent addressing matters including car parking layout, vehicle manoeuvring, storm water and civil works and potential impacts on RMS assets, and impacts during construction. These requirements have been included in the attachment to this report as recommended conditions of consent.

Clause 102 of the Infrastructure SEPP also requires consideration to be given to acoustic impacts on proposed residential units where development is to occur adjacent to roads where the average number of vehicle movements per day exceeds 40,000. Rookwood Road is an arterial road where the vehicle movements per day exceed 40,000. As such, an acoustic report is required for the proposed development.

A condition of consent has been recommended that prior to any Construction Certificate being issued that an Acoustic report in accordance with the ISEPP Cl. 102 and relevant Australian Standards be prepared and the recommendations contained be demonstrated on the Construction Certificate plans. A follow up condition of consent has been recommended that a suitably qualified consultant certify that the works have been undertaken in accordance with the report's recommendations set out prior to the issue of any Occupation Certificate for the development.



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

BASIX Certificate No/617011M\_02, dated Tuesday 19 May 2015, accompanies the Development Application. The Certificate details the thermal, energy and water commitments which are also detailed on the submitted plans. The proposal satisfies the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and is supported in this instance.

**Bankstown Local Environmental Plan 2015**

The following clauses of the Bankstown Local Environmental Plan, 2015 (BLEP 2015) were taken into consideration:

- Clause 1.2 – Aims of Plan;
- Clause 2.1 – Land use zones;
- Clause 2.2 – Zoning of land to which Plan applies;
- Clause 2.3 – Zone objectives and Land Use Table;
- Clause 2.6 – Subdivision – consent requirements;
- Clause 2.7 – Demolition requires development consent;
- Clause 4.1B – Minimum lot sizes and special provisions for attached dwellings, multi dwelling housing, residential flat buildings, serviced apartments, shop top housing, child care centres, schools and places of public worship;
- Clause 4.3 – Height of buildings;
- Clause 4.4 – Floor space ratio;
- Clause 4.5 – Calculation of floor space ratio and site area;
- Clause 4.6 – Exceptions to development standards;
- Clause 5.6 – Architectural roof features;
- Clause 5.9 – Preservation of trees or vegetation;
- Clause 5.9AA – Trees or vegetation not prescribed by development control plan.

An assessment of the proposal has identified that the proposal complies with the matters raised in each of the above clauses of the BLEP 2015, with the exception of Clause 4.1B and Clause 4.3 which, respectively, relate to minimum lot sizes and special provisions for residential flat buildings and floor space ratio requirements.

***Clause 4.1B - Minimum lot sizes and special provisions for attached dwellings, multi dwelling housing, residential flat buildings, serviced apartments, shop top***

Clause 4.1B contains a set of minimum numerical requirements controlling site area and frontage requirements for residential flat development within the R4 – High Density Residential zone.

Clause 4.1B states:



(2) *Despite any other provision of this Plan, development consent must not be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone unless:*

- (a) *the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table, and*
- (b) *the width of the lot at the front building line is equal to or greater than the width specified for that purpose and shown opposite in Column 4 of the table.*

<i>Residential flat buildings</i>	<i>Zone R4 High Density Residential</i>	<i>1,500 square metres</i>	<i>30 metres</i>
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The above standards are supported by the following objectives which provide guidance on the numerical controls. The relevant objectives are:

- (a) *to ensure that lots for residential accommodation are of sufficient size to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle manoeuvring areas,*
- (d) *to minimise any likely adverse impact of the development on the amenity of the area,*
- (e) *where an existing lot is inadequate in terms of its area or width—to require the consolidation of 2 or more lots.*

The development site has a frontage of 24.2 metres, which does not comply with minimum width requirements in accordance with Clause 4.1B of the BLEP 2015.

The applicant has made a submission pursuant to Clause 4.6 of Bankstown Local Environmental Plan 2015, seeking variation to the provisions of Clause 4.1B of the LEP. The submission, and the proposed variation are discussed in later sections of this report.

### **Clause 4.3 – Height of Buildings**

Clause 4.3(2) of LEP 2015 states:

- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

The height shown on the map is 13 metres. The above Clause and Height of Building Map contained within the LEP is supported by the following objectives which provide guidance on the numerical controls. The relevant objectives are:

- (a) *to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located,*
- (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.*

The proposal generally complies with the maximum building height, apart from point encroachment on the eastern proposed block caused by the protrusion of the lift shaft and stair well which exceeds the maximum permitted by 2 metres. The remainder of the development is compliant with the height limit.

The applicant has made a submission pursuant to Clause 4.6 of Bankstown Local Environmental Plan 2015, seeking variation to the provisions of Clause 4.3(2) of the LEP. The submission, and the proposed variation are discussed in the following sections of this report.

#### **Clause 4.6 – Exceptions to development standards**

Pursuant to Clause 4.6 of LEP 2015, the applicant has made a submission seeking variation to the provisions of Clauses 4.1B and 4.3 of LEP 2015. An extract from the applicant's submission follows:

- *The built form of the proposal is considered to respond appropriately to the surrounding context and generally complies with the relevant built form controls. The site is capable of accommodating the proposed built form and in this regard, the proposal is considered to be a suitable development for the site and contribute positively to the existing streetscape.*
- *The proposal will provide adequate amenity for the residents both on-site and of neighbouring properties.*
- *The proposed development complies with ARHSEPP floor space controls and will comply with deep soil and landscaping controls of the ARHSEPP.*
- *Front setback controls maintain Council's intended street character of high density residential dwellings. There is a non-compliance with side setbacks, however the proposal complies with minimum 6m building separation under the RFDC.*
- *Further, the site is considered an isolated lot. The adjoining properties to the site have both been developed in line with Council planning controls, limiting the opportunities for consolidation, and consequently compliance with the minimum lot width requirement. Nonetheless, the non-compliance is modest, inevitable and does not affect the visual mass of the building in relation to the size of the site as the site exceeds the minimum requirement of 1500sqm.*
- *Variations relating to height of buildings is minimal and confined to the lift and stair overruns on the eastern module.*
- *The lift and stair overruns are setback from each elevation of the eastern module by at least 4m. the lift and stair overruns will therefore have no significant, adverse impacts on neighbours in terms of overshadowing, privacy or visual bulk.*
- *The proposal is considered to satisfy the objectives of the development standard despite the numerical compliance, as well as the objectives of the R4 zone in which the land is located.*

In consideration of a Clause 4.6 submission, Council is required to assess the proposal having regard to the following matters:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.1B contains a set of minimum numerical requirements controlling site area and frontage requirements for residential flat development within the R4 – High Density Residential zone. Clause 4.3(2) prescribes a maximum permissible height of buildings for development within the R4 – High Density Residential Zone. Both clauses are considered to be development standards.

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant's submission has been reproduced earlier. Consideration of that submission follows:

#### **Minimum allotment width**

The relevant objectives for the minimum lot width requirements as contained in Clause 4.1B of LEP 2015 are:

- (a) *to ensure that lots for residential accommodation are of sufficient size to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle manoeuvring areas,*
- (d) *to minimise any likely adverse impact of the development on the amenity of the area,*
- (e) *where an existing lot is inadequate in terms of its area or width—to require the consolidation of 2 or more lots.*

In addressing the proposed variation to the minimum lot width requirements, consideration must be had to whether the whether the site can be consolidated with other lots in order to achieve a compliant allotment width. In this instance, a newly constructed residential flat building exists to the north and a recently constructed villa home development exists to the south. It is considered highly unlikely that consolidation with either of these lots could be achieved. This leaves consideration of the proposed variation against objectives (a) and (d) of the Clause.

In order to provide some guidance as to whether these specific objectives of the control have been satisfied, consideration should be given to the proposal's compliance with other relevant planning provisions. To a large degree, an assessment of the proposal against the provisions of the Residential Flat Design Code would provide this guidance. Earlier sections of this report have assessed the proposal's compliance with the provisions of the RFDC. That assessment concluded that the proposal is largely compliant with the provisions of the Code and that, where variations are proposed, those variations are considered to be worthy of support.

Of particular relevance in consideration of the proposed lot width, is the ability of the proposal to satisfy building separation controls, privacy and overshadowing controls. The building separation controls serve the multiple purposes of breaking the bulk of building forms when considered in totality along multiple sites, allowing adequate sunlight and airflow between developments, maintaining adequate levels of privacy between developments, and maintaining views and general outlook. Whilst the proposal fails the building separation controls, the applicant has sought to overcome this by the design and location of windows and balconies to minimise privacy impacts on adjoining properties. The proposal remains compliant with solar access and ventilation controls and overshadowing controls with respect to adjoining development. Accordingly, it can be considered that the proposal satisfies the relevant objectives of the control.

### **Maximum height**

The relevant objectives of Clause 4.3B of BLEP 2015 are:

- (a) to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development will be located,*
- (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.*

The proposed development complies with the maximum permitted building height of 13 metres, and in some cases is up to 2 metres below the height limit. The breach occurs because of the provision of a lift over run for the rear building element, which is provided in order to gain access to a roof top terrace area. Were this area to be deleted, as recommended in this report, the majority of the lift over run to serve the upper most residential floor would sit below the maximum permitted height. The element in question has a footprint of 3.0 m x 2.6m and is located slightly south of the central portion of the roof. As a result of compliance with conditions of consent, it will protrude a maximum distance of 500mm above the roof level. It is unlikely to be visible from the street and will have limited impact on neighbouring development.

On this basis, it is considered that the minimal breach of the height standard that would follow after deletion of the roof top area is acceptable.

- (4) Development consent must not be granted for development that contravenes a development standard unless:*

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

It is considered that the applicant's justification for the variation is acceptable and that sufficient environmental planning grounds exist for support of the proposed variations. Further, it is considered that strict application of the applicable standards in this instance would be likely to hinder the objects of the Act, contrary to the public interest.

The highest and best use of this site, in the context of its high density residential zoning, is for multi- unit residential flat development that seeks to make use of the density that applies under the relevant planning controls. Strict application of the standards would limit any development of this site to a villa style development, as it is unlikely that this site could be consolidated with land to the north or south to achieve the minimum required frontage for residential flat building development. Provided the objectives of the standards can be maintained, it is considered that a residential flat development would be the most economic use of the land. Earlier discussion contained within this report has concluded that the variations proposed in this application are capable of being supported, as the intent of the controls have been satisfied.

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

State Environmental Planning Policy (Affordable Rental Housing) 2009 prevails over a number of the controls contained within the Bankstown Development Control Plan, 2015 (BDCP 2015). The following table provides an assessment of the application against the relevant controls contained within the BDCP 2015 for residential flat development where the SEPP remain silent.

BDCP 2015 Control	Proposal	Compliance
<b>Storey limit</b> 4 storeys	Four (4) storey residential flat development across two (2) separate buildings	Yes
<b>Primary setback</b> 6m minimum	Ground to third floor provide 6m setback An 8m setback is proposed to the fourth floor Building Wall	Yes
<b>Side and rear setbacks</b> 4.5m provided the average setback is 0.6m x wall height	Varying side setback 3m to 5m Rear setback – 6m	No – refer below
<b>Driveway setback</b> 1m minimum	3m	Yes
<b>Private Open Space</b> To be provided behind the front building line	Ground level units G01 and G02 proposed POS forward of building line.	No



<b>BDCP 2015 Control</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Demolition</b> Development must demolish all existing dwellings on the allotment	All structures are proposed to be demolished	Yes
<b>Adaptable Housing</b> RFBs with 10 or more dwellings must provide at least 1 adaptable dwelling per 50 in accordance with AS4299 – Adaptable Housing	Units G09 and G10 proposed which satisfy minimum requirements	Yes
<b>Roof Pitch</b> Maximum roof pitch for RFBs is 35 degrees	The proposal provides a Flat roof	Yes
<b>Attics</b> Council does not allow for RFBs four storeys or more to have attics	No attic spaces are proposed	Yes
<b>Car Parking</b> Development must locate car parking spaces behind the front building line	All car parking spaces are contained within basement level accessible via primary frontage, Rookwood Road.	Yes
<b>Waste Storage</b> To be in accordance with Appendix 7 of Part B1 of the BDCP 2015	Provided on Ground Level in secure room and in accordance with Council requirements	Yes

As the above table demonstrates, the proposal is seeking variation to private open space and side setback requirements in accordance with the standards contained within Part B1 of the Bankstown Development Control Plan, 2015.

#### Side and Rear Setbacks

Clause 9.10 of Part B1 of the BDCP 2015 requires that a minimum 4.5m side setback be provided for residential flat buildings with 3 or more storeys, or a setback of 0.6 x height be provided. This would equate to the following minimum setbacks:

To the southern boundary: 7.44 metres  
To the northern boundary: 7.77 metres  
To the eastern boundary: 7.23 metres

Setbacks of 3 metres are provided to the northern and southern boundaries and a 6 metre setback is provided to the eastern boundary.



The issue of building separation has been dealt with in previous sections of this report, and the proposed non-compliance with the setbacks applicable under Council's DCP can be considered in a similar light. The purpose of the setback control is to provide spatial relief between buildings and to provide opportunities for sunlight access, ventilation, privacy and maintenance of outlook. Strict compliance with the provisions of Council's DCP in this instance would result in a building that has a width of 8.99 metres, which would produce an unreasonably constrained development, and would essentially render this site a villa home site.

If the site is to be developed for the purpose for which it is zoned, there would need to be some recognition that there would need to be some relaxation of the applicable setback controls, and that such relaxation would only be reasonable in circumstances where the objectives of the control are still met, through the design of the development itself. Earlier discussion in this report has concluded that the proposed separation distances between this development and neighbouring development are acceptable. It follows that the variation to Council's setback controls are acceptable.

#### *Private Open Space*

Clause 9.14 of Part B1 of the BDCP 2015 requires that private open space be provided behind the front building line of developments. All units satisfy this requirement, except for Units G01 and G02 which provide this forward of the building line. Whilst technically not compliant, the proposed design of which is accessible via living areas ensures the design of the private open space complies with the requirements of the RFDC and ensures amenity to residents in terms of access to sunlight. Further, both areas to G01 and G02 are appropriately screened and landscaped to ensure privacy is maintained to intended residents.

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

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 Regulations, 2000.

#### ***Any coastal zone management plan [section 79C(1)(a)(v)]***

The development site is not within a coastal zone, and hence considerations are not applicable in this instance.

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

Based on the assessment contained in previous sections of this report, it can be concluded that the proposed development will have an acceptable impact on the locality.



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

The proposal represents a built form which is compatible with the desired future character of the locality, which is informed by the zoning that applies to the site under LEP 2015. Consideration of allotment width goes to the issue of the suitability of the site, and conclusions reached in earlier sections of this report determined that the proposed development satisfies the intent of the planning controls despite the proposed non compliances that can be attributed to allotment width (such as setbacks and building separation). Therefore, it would follow that the site can be considered suitable for the proposed development.

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

The application was advertised and notified for a period of twenty-one (21) days from 15 April to 5 May 2015. One (1) pro forma letter signed by five (5) persons was received during this period. The following concerns were raised in respect to the development:

#### *Rear and side setbacks*

The issue of side and rear setbacks have been dealt with in earlier sections of this report and the conclusion reached was that the proposal will still satisfy the intent of the planning controls, despite the proposed non- compliances.

#### *Overshadowing and solar access*

Earlier sections of this report have dealt with issues of overshadowing to the villa home development located on the southern adjoining property. It was considered appropriate to assess the potential overshadowing impacts against the two hour control that applies to dense urban areas, given the High Density Residential zoning of the site. If assessed in this manner, the proposal maintains adequate levels of solar access to the adjoining villa home development.

#### *Privacy*

The proposed development has been designed in a manner that adequately manages potential privacy impacts within the development and to neighbouring developments. All living rooms are located on either the eastern or western elevations of the buildings, resulting in bedroom and bathroom windows being the only windows which address the northern and southern (side) elevations, with 1.5 metre high sills provided to the rooms. These areas are considered to be low use areas when compared to living areas, and have associated reduced privacy impacts.

Conditions of consent will be imposed to ensure that all proposed balcony areas are lined with privacy screening elements that will restrict views to the north or south.

### *View loss*

No iconic views exist across the site from neighbouring properties and so no significant view loss is likely to occur. It is inevitable that there will be some loss of outlook when a four storey residential flat building is constructed on a site that previously accommodated single storey residential dwellings. However, in the context of the permitted uses, density and height permitted on the site, the loss of outlook is considered acceptable. Further, it is considered that the loss of outlook from the proposed development compared to a fully compliant scheme is marginal.

### *Property value*

No evidence has been submitted to Council substantiating the claim that development will devalue adjoining properties.

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

Having regard to the relevant planning considerations, the proposed development is in the public interest.

### **CONCLUSION**

The Development Application has been assessed in accordance with the provisions of the Environmental Planning and assessment Act 1979 and Regulations, 2000, and the associated applicable state and local planning controls and policies.

The subject site fails to comply with the minimum frontage requirements for residential flat buildings, as a consequence of it being located between two sites which have been developed to a point where it is unlikely that the site could be consolidated in the short, medium and perhaps long term in order to achieve a compliant allotment width. That being the case, the outcome for the site is either:

- (a) That the site remains dormant;
- (b) That the site accommodates a minor increase in density in accordance with the applicable planning controls, but does not achieve the potential/ highest and best use envisaged for the site under the controls that apply; or
- (c) That the site is developed in accordance with the density controls that apply to the site, provided that the non- compliances that arise can be managed through the design of the development.

In terms of the most appropriate planning outcome, the last option is considered to be the most desirable outcome, provided that that impacts of the development are able to be managed in the same manner as a compliant form of development. In this instance, it is considered that the development is an appropriate outcome for the site, with the proposed non- compliances of side setback, separation distance and communal open space, and building depth addressed by the design of the development.

On the basis of the assessment contained within this report, it is recommended that the application be approved.