

<b>ITEM</b>	<b>2-10 Cammarlie St, Panania</b>
	<b>Consolidation of five (5) allotments, construction of two 3-storey residential flat buildings comprising of twenty two (22) units and six (6) 2-storey multi dwelling housing with associated carparking and landscaping under State Environmental Planning Policy (Affordable Rental Housing) 2009</b>
<b>FILE</b>	<b>DA-353/2015 (JRPP Ref. 2015SYW082)</b>
<b>ZONING</b>	<b>R2 Low Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>13 April 2015</b>
<b>APPLICANT</b>	<b>Emmanuel Torres</b>
<b>OWNERS</b>	<b>NSW Land and Housing Corporation</b>
<b>AUTHOR</b>	<b>Development Services (Ellen Mannix)</b>

### **SUMMARY REPORT**

The subject application 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*. The proposed development has an estimated Capital Investment Value (CIV) of \$6,350,153.00 and therefore exceeds the capital investment threshold for 'Crown development'.

Development Application No. DA-353/2015 proposes the consolidation of five (5) allotments, construction of two 3-storey residential flat buildings comprising of twenty two (22) units and six (6) 2-storey attached multi dwelling units with associated car parking and landscaping under State Environmental Planning Policy (Affordable Rental Housing) 2009.

DA-353/2015 has been assessed against the *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*, *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*, *Bankstown Local Environmental Plan 2015* and the *Bankstown Development Control Plan 2015* and is recommended for approval subject to the attached conditions of consent.

The application fails to comply with the maximum permitted height of buildings and floor space ratio as contained within the *Bankstown Local Environmental Plan, 2015*. The application also proposes minor variations to the *Bankstown Development Control Plan 2015* and “rules of thumb” contained in the Residential Flat Design Code, particularly in relation to building separation, open space and storage.

The proposed residential flat building will have a height, bulk and scale different to that of the existing streetscape. However, as the development type is permitted, the associated built form can be considered acceptable as there are a range of permitted development types within the R2 Low Density Residential Zone such as schools, hospitals and community facilities that do not conform to the typical residential dwelling. Therefore it can be expected to have developments with varying degrees of height, bulk and scale with the R2 zone, providing there is no adverse impact on the surrounding area. The assessment contained within this report demonstrates that the development has appropriately managed the difference in bulk and scale so that it does not have any adverse impacts on the amenity of the area. Therefore it is considered the proposed development to be not incompatible with the residential uses.

The application was advertised and notified for a period of twenty-one (21) days from 29 April 2015 to 19 May 2015. Six (6) submissions were received during this period, as well as a petition signed by 220 residents. Upon the lodgement of amended plans and additional information, the application was subsequently re-notified for a period of twenty-one (21) days from 18 December 2015 to 7 January 2016. A total of three (3) submissions were received all from previous objectors. All submissions received expressed concern with the development proceeding.

The objections made against the proposed development raise concerns relating to residential flat buildings being prohibited in the zone, residential flat buildings being unsuitable for the area, non-compliance with development controls, increased density, increased housing commission occupants, traffic and parking, visual and acoustic privacy and lack of public consultation. The issues raised do not warrant refusal of the development application, and the proposed development is considered to be acceptable under the relevant planning controls for the site and the locality with respect to these matters.

### **POLICY IMPACT**

This matter has no direct policy implications. A site compatibility certificate has been issued in relation to the development. The proposed variations to Council’s planning controls relate to maximum permitted height and floor space ratio. The consequences of strict compliance with the height and FSR controls would restrict the ability to develop the site for the purpose of a form of development which is permitted under the Affordable Rental Housing SEPP.

### **FINANCIAL IMPACT**

This matter has no direct financial implications.

## **RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions. Concurrence from the NSW Land & Housing Corporation with respect to the attached conditions has been received.

## **ATTACHMENTS**

- A - Conditions of Consent
- B - Notification Plan
- C - Objectors Map
- D - Site Plan
- E - Elevations

## **DA-353/2015 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject sites are known as 2-10 Cammarlie Street, Panania and are zoned R2 - Low Density Residential under the *Bankstown Local Environmental Plan 2015*. The consolidated development site (the site) has an area of 3,155.20m<sup>2</sup> and a frontage of 57.015m to Cammarlie Street.

The site previously contained five (5) single storey detached dwelling houses, which have been demolished since the lodgement of this application. A number of trees stand on the site, notably a mature *Eucalyptus microcorys* (Tallowood) at the front of No. 2 and a *Corymbia citriodora* (lemon-scented gum) at the front of No. 8. There are three (3) street trees located in Council's nature strip at the front of the site.

The site is bound to the north, east and west by single and two storey detached dwelling houses and dual occupancies. Located south of the site, across the road is Cammarlie reserve, a passive park of approximately 11,600m<sup>2</sup>. The surrounding area consists of predominantly single and two storey detached dwelling houses and attached dual occupancies. The site is less than 400 metres from Panania Train Station and less than 400 metres to Marco reserve, a large public sporting complex (approx. 60,000 m<sup>2</sup>) comprising of sporting fields for both passive and active recreation. There is an existing senior's housing development consisting of 18 units to the south-east of the site at No. 9 Batchelor Avenue. The site locality is illustrated in the aerial photo in Figure 1.



**Figure 1.** Aerial photo of the subject site (adapted from NearMap)

## **PROPOSED DEVELOPMENT**

The subject application proposes the following;

- Removal of nine (9) on-site trees and one (1) street tree, and the retention of three (3) on-site trees and two (2) street trees.
- Consolidation of five (5) existing allotments into one (1) allotment.
- Construction of twenty-eight (28) units consisting of 14 x 1-bed and 14 x 2-bed units under State Environmental Planning Policy (Affordable Rental Housing) 2009.
- The development consists of two three-storey buildings at the front of the site, each consisting of eleven (11) units each (i.e. four on the ground floor, four on the first floor and three on the second floor), and six (6) two-storey multi-dwelling units to the rear of the site, in the form of two buildings of three attached dwellings.
- Fifteen (15) at grade car parking spaces, comprising of two (2) disabled spaces, accessed by three (3) separate driveways on Cammarlie 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)]**

#### **Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Deemed SEPP)**

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The proposed works are consistent with the relevant planning principles outlined in Clause 8 of the GMREP No 2 and the proposal does not include any of the specific development types that have specific planning requirements as listed under the 'planning control table'.

### **State Environmental Planning Policy (State and Regional Development) 2011**

Part 4 - Regional Development of the *State Environmental Planning Policy (State and Regional Development) 2011* applies to this application as it is for the purposes of a Crown development with a capital investment value of more than \$5 million, as specified in Schedule 4A(5) of the *EP&A Act, 1979*. The subject development application is therefore to be determined by the Sydney West Joint Regional Planning Panel.

### **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 site has been subject to any contaminating land uses. The subject site is considered suitable for the proposed residential use and therefore, satisfies the provisions of SEPP 55.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development and aims to encourage sustainable residential development.

A BASIX Certificate (581725M) was submitted with the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

**State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development**

SEPP No 65 aims to improve the design quality of residential flat buildings. Accordingly the SEPP applies to the proposed residential flat building component. At the time of lodgement of this development application, the SEPP required an assessment against the Design Quality Principles and Residential Flat Design Code (RFDC).

On 17 July 2015, the NSW Government updated the RFDC into a new document entitled *Apartment Design Guide*. The changes to SEPP 65 include transitional provisions under Clause 31(2) that afford the RFDC to continue to apply to apartment development applications lodged prior to 19 June 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 the RFDC.

The proposed development is generally consistent with the Design Quality Principles and largely complies to the key 'rules of thumb' contained in the Residential Flat Design Code, as detailed in Table 1.

**Table 1. Residential Flat Design Code assessment**

'RULE OF THUMB'	PROPOSED	COMPLIANCE
<b>Building depth</b> 10m - 18m is appropriate.	Building depths range from 10.5m to 13m.	Yes.
<b>Building separation</b> Buildings over 3 storeys and up to 4 storeys. <ul style="list-style-type: none"> <li>- 12 metres between habitable rooms/balconies</li> <li>- 9 metres between habitable/balconies and non-habitable rooms</li> <li>- 6 metres between non-habitable rooms</li> </ul>	<p>The development proposes 2 x three-storey buildings, Block A and Block B to the front and two lots of 3 x two-storey attached multi dwelling units to the rear, units 23-25 and 26-28. Setbacks within the site provide for a min. 6.08m between habitable rooms/balconies of Block A and Block B.</p> <p>The development proposes a setback of 9.5m between habitable rooms of Block A and B and non-habitable rooms of the multi dwelling units to the rear.</p> <p>Setbacks to the boundaries provides for 5m to the Western boundary and 9.19 to the Eastern boundary.</p>	<p>No. Separation between Block A and Block B, has a shortfall of 5.92m. The first and second floors have no windows along the walls on the facing elevations and the balconies have suitable privacy screening, thereby maintaining visual and acoustic privacy between buildings. The third floor contains windows to living areas on the facing elevation with an increased setback of 7.8 metres and subject to a condition of consent to have a minimum sill height of 1.5 metres. This is considered acceptable as the proposed separation will have negligible impacts on visual privacy.</p> <p>Yes.</p> <p>No. However, when measured from the three storey element the setback from the Western boundary to Block A is 13.5 metres providing for appropriate visual privacy.</p> <p>The proposed development satisfactorily addresses visual privacy and solar access issues, and it is unlikely that an increase in separation would further improve the amenity of dwellings within the subject site and on adjoining sites. Therefore the development is considered to achieve the overall intent of</p>





<p>should be &lt; 8m from a window.</p> <ul style="list-style-type: none"> <li>- The width of cross-through apartments over 15m deep should be 4m.</li> </ul>	<p>100% of cross-through apartments are less than 15m deep.</p>	<p>Yes.</p>
<p><b>Apartment size</b>  1 bed – min. 50m<sup>2</sup>  2 bed – min. 70m<sup>2</sup></p>	<p>1 bed – &gt;50.9m<sup>2</sup>  2 bed – &gt;73.28m<sup>2</sup></p>	<p>Yes.  Yes.</p>
<p><b>Balcony depth</b>  Primary balconies to be a minimum depth of 2m.</p>	<p>100% of primary balconies more than min. depth of 2m.</p>	<p>Yes.</p>
<p><b>Floor to ceiling heights</b>  Min. 2.7m for all floors.</p>	<p>All storeys have a floor to ceiling height of 2.7m.</p>	<p>Yes.</p>
<p><b>Ground floor apartments</b></p> <ul style="list-style-type: none"> <li>- Optimise the number of ground floor apartments.</li> <li>- Provide ground floor apartments with access to private open space, preferably as a terrace or garden.</li> </ul>	<p>36% of units are ground floor apartments with external entry</p> <p>Ground floor apartments have their own defined private open space due to the absence of communal open space with a min. 30m<sup>2</sup>.</p>	<p>Yes.</p> <p>Yes.</p>
<p><b>Internal circulation</b>  Max. 8 units access from a single corridor.</p>	<p>Max. 4 units accessed from a walkway corridor.</p>	<p>Yes.</p>
<p><b>Storage</b>  In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:  - one-bedroom 6m<sup>3</sup>  - two-bedroom 8m<sup>3</sup></p>	<p>No additional storage has been provided.</p>	<p>Sufficient storage space has been provided in the form of sizeable walk-in wardrobes, pantries and linen cupboards. Land and Housing Corporation has specifically stated they do not wish to encourage additional ancillary storage spaces or common storage areas/rooms in multi dwelling and RFBs based on experience with safety, tenancy management and fire hazard issues. Due to the small size of the development and storage proposed within the units, a variation can be supported.</p>
<p><b>Daylight access</b>  70% of units should receive 3 hours solar access between 9am</p>	<p>100% of units receive 3 hours of solar access between 9am and 3pm in</p>	<p>Yes.</p>

and 3pm midwinter to a living room.	midwinter to a living room.	
<b>Natural ventilation</b> 60% of units to be naturally ventilated.	55% of units are naturally cross-ventilated.	The proposed design allows for the inclusion of ceiling ventilation to units 10 and 21 to achieve 63% as a condition of consent.
25% of kitchens to have access to natural ventilation.	45% of kitchens are naturally ventilated.	Yes.

### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

The subject development has been proposed in accordance with *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP). The SEPP 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. The application has been assessed under Division 5 of Part 2 New affordable housing controls contained within the SEPP.

#### **Division 5 Residential flat buildings—social housing providers, public authorities and joint ventures**

##### *Clause 34 Land to which Division applies*

Division 5 applies to land in the Sydney region that is within 800 metres of a public entrance to a railway station when the development for the purposes of a residential flat building is not permissible under another environmental planning instrument. The proposed development is located on land within 400 metres of Panania station and is not permitted under another environmental planning instrument, which is in accordance with Clause 34.

##### *Clause 35 Development to which Division applies*

This Division applies to development for the purposes of a residential flat building by a person who is undertaking the development with the Land and Housing Corporation. The applicant is submitting the application that includes a residential flat building on behalf of the Land and Housing Corporation.

##### *Clause 36 Development may be carried out with consent*

A consent authority must not consent to development to which this Division applies unless it is satisfied that the Director-General has certified in a Site Compatibility Certificate (SCC) that, in the Director-General's opinion, the development is compatible with the surrounding land uses.

The application has been accompanied by an SCC dated 21 May 2014 that is valid for 5 years from this date as per Clause 37(9) of the ARH SEPP. The SCC was issued for the following project description:

*'To construct a three (3) storey residential flat building comprising twenty-two (22) units and six (6) two storey townhouses resulting in twenty eight (28) units on the subject site'.*

It is important to note that despite the project description including the multi-dwelling units to the rear, the SCC is only applicable to the residential flat building component and not the multi-dwelling units as Division 5 relates to residential flat buildings only.

The clause also includes provisions which still enable the consent authority to refuse consent to development by reference to the consent authority's own assessment of the compatibility of the development with the surrounding land uses. As per Clause 37 (6)(b) the assessment of the sites compatibility with the surrounding land uses is to have regard to the following matters:

- (i) the existing uses and approved uses of land in the vicinity of the development,*
- (ii) the impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the Director-General, are likely to be the preferred future uses of that land,*
- (iii) the services and infrastructure that are or will be available to meet the demands arising from the development, and*

The subject site and those adjoining, are zoned R2 Low Density Residential with sites predominately occupied by single and two storey building forms. Development comprises a mix of dwelling houses, attached and detached dual occupancies and multi dwelling developments. The nature of the proposed development is similarly residential in nature and in the most part, provides for a two storey building form with the third storey being confined to the central portion of the site. While the third storey is not reflected on adjoining developments, compatibility is achieved through building materials, setbacks, visual bulk and scale and built form. The impact of the development including the bulk and scale on the surrounding uses has been appropriately managed as detailed within this report. Therefore it is considered that the proposed residential flat building is not incompatible with the surrounding land uses.

Division 5 does not require car parking. However the applicant has provided for fifteen (15) car spaces.

#### **Bankstown Local Environmental Plan 2015**

The following clauses of the *Bankstown Local Environmental Plan 2015* are relevant to the proposed development and were taken into consideration:

1. Clause 2.1 – Land use zones
2. Clause 2.2 – Zoning of land to which Plan applies
3. Clause 2.3 – Zone objectives and Land Use Table
4. Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings
5. Clause 4.3 – Height of buildings
6. Clause 4.5 – Calculation of floor space ratio and site area

7. Clause 4.6 – Exceptions to development standards
8. Clause 5.9 – Preservation of trees or vegetation
9. Clause 6.1 – Acid sulfate soils
10. Clause 6.3 – Flood planning

A detailed assessment of the development application against the relevant provisions contained within the *Bankstown Local Environmental Plan 2015* is as follows;

*Clause 2.2 – Zoning of land to which Plan applies*

The site is located on land zoned R2 Low Density Residential.

*Clause 2.3 – Zone objectives and Land Use Table*

The Land Use Table sets out which development may be carried out in each zone. This table shows that development for the purposes of a 'residential flat building' is not permitted with or without consent and is therefore prohibited on land zoned R2 - Low Density Residential. The use is permitted under Division 5 of the ARH SEPP with the issue of a Site Compatibility Certificate.

*Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings*

Multi dwelling housing in zone R2 Low Density Residential requires a minimum land area of 1,200m<sup>2</sup> and a minimum frontage of 20 metres. The subject allotment has an area of 3,155.20m<sup>2</sup>, and a frontage of 57.015m and thereby satisfies this requirement. There are no land size requirements for residential flat buildings in the R2 Low Density Residential zone.

*Clause 4.3 – Height of buildings*

The relevant parts of Clause 4.3(2) state;

*(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 of Buildings Map prescribes a maximum building height of 9 metres on the subject sites.

*(2B) Despite subclause (2), the following restrictions apply to development on land in Zone R2 Low Density Residential:*

*(c) for multi dwelling housing and boarding houses:*

*(ii) the maximum building height for all other dwellings at the rear of the lot is 6 metres and the maximum wall height is 3 metres.*

The proposal does not comply with these controls as per Table 2.

**Table 2.** Clause 4.3 Height of Buildings assessment

	Building Height		Wall Height	
	Proposed	Maximum	Proposed	Maximum
<b>Block A</b>	11m (10.35-21.35 AHD)	9	N/A	N/A
<b>Block B</b>	10.61m (11.29-21.90 AHD)	9	N/A	N/A
<b>Rear Multi-Dwelling (East)</b>	5.79m (10.85-16.64)	6	5.54m (10.85-16.39)	3m
<b>Rear Multi-Dwelling (West)</b>	5.99m (10.10-16.09)	6	5.74m (10.10-15.84)	3m

The applicant has made a submission pursuant to Clause 4.6 of the BLEP 2015, seeking a variation to the provisions of 4.3(2) and 4.3(2B)(c)(ii). The submission and the proposed variation is discussed later in this report.

#### *Clause 4.4 – Floor space ratio*

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The floor space ratio map shows the maximum permitted floor space ratio as 0.5:1 on the subject site.

The proposed FSR is 0.598:1, a variation of 19.6%. The applicant has made a submission pursuant to Clause 4.6 of the BLEP 2015, seeking a variation to the provisions of Clause 4.4(2). The submission and the proposed variation is discussed later in this report.

#### *Clause 4.5 – Calculation of floor space ratio and site area*

The floor space ratio calculations were calculated accordingly.

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

The aim of Clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to achieve better development outcomes. Clause 4.6(2) permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The applicant proposes a variation to the provisions of Clause 4.3 and 4.4 of the BLEP 2015 regarding the exceedance of building and wall height and floor space ratio, classified as development standards.

In considering the proposed variations to the maximum height of buildings and floor space ratio, Clause 4.6 requires the following;

- (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.*

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

The applicant has proposed two variations to Clause 4.3; maximum building height for the residential flat building and maximum wall height for the multi-dwelling units to the rear (Table 2). The applicant submitted a written request seeking to justify the contravention of the building heights. Their primary arguments are;

- 1. Flexibility in the building and wall height standards is in this particular instance, justified and strict compliance is unreasonable and unnecessary as it will result in the loss of at least 6 RFB's (units) and potentially 3 multi dwelling affordable rental housing units. It will be tantamount to under utilization of existing site potentials and public infrastructure as well as disregard to the objective of Division 5 of the ARHSEPP in the provision of new affordable rental housing.*
- 2. The SEE has demonstrated that there is no disruption to existing views, loss of privacy, overshadowing or visual intrusion despite numerical excess in the maximum building wall and building heights. The impact to the current amenity will be insignificant.*

Specifically in regards to the residential flat building component to the front of the development the applicant argues the following;

- 3. The proposed non-complying building height of the residential flat building consists of 22% (Block A) and 17% (Block B) needed to accommodate lift overruns. In addition, to reduce building bulk, the main roof is fragmented into smaller skillion type roofs that invariably result in greater heights (i.e. hip roof).*
- 4. The part of the proposed works that has a building height greater than 9m occupy a very small proportion of the roof and building bulk (See Figure 2). This non compliant portion is sufficiently setback from the street, side and rear property boundaries. Scale, height and built form is adequately resolved by breaking up the building mass and in articulated building facades. The building height profile provides a transitional step down from the taller mid portion of the RFB to the lower sides.*
- 5. The front elevation demonstrates that the development sits comfortably within the existing streetscape and surrounding area. The minor breach is not incompatible with any existing and future development.*

It is agreed that the proposed variations to building height is a result of the proposed residential flat building in the R2 Low Density Residential Zone. As detailed in the assessment under the ARH SEPP, the residential flat building is permitted under Division 5 of the ARH SEPP and as this section of the SEPP remains silent on height, the proposal is subject to the height controls in the BLEP 2015. The objectives of the SEPP are 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. Strict compliance with the height controls under the BLEP 2015 will not only result in the site being under-utilised but also go to undermine the objectives of the ARH SEPP.

In addition, the applicant argues that the proposed non-compliant building height of the residential flat building comprises a minor departure of a maximum of 2m to Block A and 1.61m to Block B, partially required to accommodate lift overruns. The portion of the development that exceeds 9m in building height (marked in red on Figure 2) is contained within a small part of the roof and is sufficiently setback from the street (7 metres), eastern boundary (13.5 metres), western boundary (9.3 metres) and rear boundary (19 metres) providing for appropriate height transitions between the development and the adjoining development. Furthermore, the street elevation has been designed to include features that accentuate the first two floors and reduce the visual appearance of the third floor, to appear as being contained within the roof structure (Figure 2). The minor non-compliance can be supported as the height and built form of the development will maintain the prevailing suburban character in which the development will be located.



**Figure 2:** Front elevation of Block A and Block B

In regards to the multi-dwelling units to the rear (units 23-28), a variation is sought for wall height. It is important to note that, the Site Compatibility Certificate is only applicable to the residential flat building component and not the multi-dwelling units to the rear as Division 5 of the ARH SEPP relates to residential flat buildings only. Therefore this component of the development is subject to assessment under the BLEP 2015 and BDCP 2015. The applicant argues the following;

1. *The non-complying wall height on the proposed multi dwellings to the rear of the site are consequences of a two storey structure superimposed a single storey in this instance as the proposed development is akin to any seniors housing development undertaken by LAHC that is exempt from this (single storey) standard pursuant to Cl 40 (5) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.*

2. *Careful consideration was given in the multi dwelling design to integrate its upper level into the roof structure similar to an attic. Pursuant to the BLEP 2015 definition, an attic is not considered as a 'storey'.*
3. *Moreover, the multi dwellings are not visible from the street and viewed from the adjacent rear properties, the structure read as a single storey dwelling with attic.*

The design of the rear multi-dwelling component to the east (units 26-28) propose an exceedance to the wall height by 2.54 metres and to the west (units 23-25) a breach of 2.74 metres. These two storey units have been designed to appear as a single storey with a loft to the rear and a two storey element internal to the site. The non-compliance arises from the gable design that includes a front wall that extends from natural ground to just below the eave (above the gable) that contributes to the façade and allows for two bedrooms. The non-compliance can be supported as the overall building is under the 6 metres and the majority of the side and rear walls are below 3 metres. The non-compliant walls face into the site and will be sufficiently obscured by the residential flat building when viewed from the street. Therefore the proposed variations have negligible impact on the amenity of adjoining properties and it can be seen Clause 4.6(3)(a) is satisfied in that *compliance with the development standard is unreasonable or unnecessary in this specific circumstance.*

Notwithstanding the above, consideration of the proposed variation to the maximum height controls are still subject to an assessment of whether the built form is consistent with the objectives of Clause 4.3 of the BLEP 2015;

- (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,*
- (b) *to maintain the prevailing suburban character and amenity by limiting the height of development to a maximum of two storeys in Zone R2 Low Density Residential,*
- (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 applicant argues that the objectives of the Clause are met by the proposal for the following reasons:

1. *Scale, height and built form is adequately resolved by breaking up the building mass and articulated building facades. The skillion roof style effectively minimizes the height and size of the structure. The building height provides a transitional step down from the taller mid portion of the RFB to the sides. The solar access considerations have been addressed in the SEE report and demonstrated that the additional height will not create any unreasonable additional impact on the nearest properties or surrounding public domain.*
2. *There will be an insignificant impact to the prevailing suburban character and amenity. The proposed 3 storey residential flat buildings blend into the 2 storey suburban character by the of use architectural design solutions and enhanced by its location right across Cammarlie Park. No disruption to*



*existing views, loss of privacy, overshadowing or visual intrusion results in the additional storey and minimal excess in building and wall heights.*

- 3. The proposed 2 storey height on both ends of the residential flat building where it adjoins adjacent side boundaries, provide an effective transition from the 3 storey level.*
- 4. The additional floor (3rd level) is located to the middle of the site and is well set back from the street frontage and adjoining side and rear properties.*

#### **Clause 4.4 Floor Space Ratio**

The applicant submitted a written request seeking to justify a variation to the floor space ratio. The applicant argues the following in support of the breach;

- 1. The non-complying element of the proposed development is a 19.6% excess over the maximum FSR standard of 0.5:1. This numerical breach is considered acceptable as it is the outcome of a well balanced urban design solution to achieve maximum site yield without adversely impacting on the local character of the area.*
- 2. Strict compliance to the 0.5:1 FSR requirement means the loss of 309m<sup>2</sup> of gross floor (GFA), equivalent of at least 3 affordable housing dwelling units. It will also result in an unsettling building form and under utilize a well located site in terms of accessibility to public transport, parks, shops, community facilities and services.*
- 3. Flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Environmental Planning and Assessment Act 1979 (the Act).*
- 4. Division 5 of the ARH SEPP applies to those areas where residential flat buildings are not normally permissible and non-compliances with key controls including FSR are considered justified. One aim of the SEPP is 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.”*
- 5. The SEE has demonstrated that there is no disruption to existing views, loss of privacy, overshadowing or visual intrusion despite numerical excess in the maximum FSR. The design meets the SEPP 65 amenity requirements demonstrating suitability of the site for the density proposed using careful planning and design strategies to reduce the environmental impact of the development. The impact to the current amenity will be insignificant.*
- 6. Flexibility in the maximum FSR standard is in this particular instance, justified and strict compliance is unreasonable and unnecessary as it will result in the loss of at least 3 RFB’s for affordable rental housing. It will be tantamount to under utilization of existing site potentials and public infrastructure as well as disregard to the objective of Division 5 of the ARHSEPP in the provision of new affordable rental housing.*

The proposed floor space ratio of this development is 0.598:1 equating to a breach of 309m<sup>2</sup>. The requirement for a variation arises out of the application being submitted under Division 5 of the ARH SEPP. Division 5 permits the development

type as a residential flat building but does not include floor space ratio controls and therefore the FSR is to be assessed under the BLEP 2015. The non-compliance can be supported as it provides for a development type more consistent with that of the ARH SEPP, rather than the BLEP 2015. Therefore, it is agreed, strict compliance to the floor space ratio controls will undermine objectives of the ARH SEPP.

Despite the non-compliant FSR, the proposed development does not result in any loss of privacy or overshadowing. Therefore the proposed variation has a negligible impact on the amenity of adjoining properties and it can be seen that (3)(a) is satisfied in that *compliance with the development standard is unreasonable or unnecessary in this specific circumstance.*

Notwithstanding the above, consideration of the proposed variation to the maximum floor space ratio is still subject to an assessment against the relevant objectives of Clause 4.4 of the BLEP 2015;

- (a) *to establish the bulk and maximum density of development consistent with the capacity and character of the locality of a development site,*

The applicant has put forward the objectives of the zone are met by the proposal for the following reasons:

- 5. *The non-complying element of the proposed development is a 19.6% excess over the maximum FSR standard of 0.5:1. This numerical breach is the result of maximizing site yield.*
- 6. *Notwithstanding, the building scale, height and form are adequately addressed in the design. A delicate balance between increased density and compatibility to existing surrounding development has been achieved by reduction of bulk, use of appropriate colours, landscaping and other architectural treatment. No intrusion to privacy, blocking of solar access and overshadowing of adjacent properties is expected as a result. The impact to the local character is not any different to any existing or future development in the area.*

In consideration of the variations to height and FSR, (3)(b) is to be satisfied, which requires *sufficient environmental planning grounds to justify a contravention to the development standard.* Strict compliance with the height and FSR requirements would result in approximately 6 less residential flat building units (the second floor of the development) and up to 12 bedrooms from the multi-dwelling units to the rear. By accommodating these LEP controls, the development erodes the incentives provided by the ARH SEPP and would align more strongly to an LEP development, rather than an ARH SEPP affordable housing development. It is therefore considered that there are sufficient environmental planning grounds to justify the breach in height and FSR in this instance.

In order to provide further guidance as to whether objective (a) and (b) of Clause 4.6 have been satisfied, consideration should also be given to the proposal's compliance with other relevant planning provisions. An assessment of the proposal against the provisions of the Affordable Rental Housing SEPP and the Residential Flat Design

Code would provide this guidance. An assessment against the provisions of the ARH SEPP and the RFDC conclude that the proposal is largely compliant.

Clause 4.6 requires the consent authority to be satisfied with the following to grant development consent;

- (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 height of buildings and floor space ratio variations have satisfactorily demonstrated that compliance with the development standard is unreasonable and unnecessary and there are sufficient environmental planning grounds that exist for support of the proposed variations. The proposed development provides for an outcome that is an appropriate response to the site and effectively delivers new affordable rental housing, addressing the aims of the ARH SEPP. For these reasons, the development would be in the public interest.

The aim of Clause 4.6(1)(b) is to achieve better outcomes for and from development by allowing flexibility in particular circumstances. The provision of well-designed affordable rental housing in a well located area has significant public benefits including reduced homelessness and improved social and economic outcomes. Thereby allowing flexibility in the application of the planning controls in this instance will lead to a better outcome from the development, provided the impacts of the development are appropriately managed. Despite the differences in height and FSR, the development has been designed with minimal impact on the adjoining properties and future residents with regard to overshadowing, privacy, parking, setbacks and amenity.

In accordance with the above, it is considered that the Clause 4.6 submission seeking consideration of variations to the maximum permitted height of buildings and floor space ratio is worthy of support in this instance.

#### *Clause 5.9 – Preservation of trees or vegetation*

The development application proposes to retain three significant trees on site, the *Eucalyptus microcorys* (Tallowood) at the front of No. 2, *Corymbia citriodora* (lemon-scented gum) at the front of No. 8 and the *Juniperus Sabina* (Savin Juniper) at the front of No. 6. The proposal seeks to retain two (2) street trees and remove one (1) street tree located in Council's nature strip at the front of the site. All other trees on the subject site are to be removed as recommended by an arborist report prepared by Redgum Horticultural, dated August 2015, considered acceptable by Council's

Tree Management Officer, subject to the imposition of conditions of consent for tree protection during construction.

#### *Clause 6.1 – Acid sulfate soils*

The development site is affected by Class 5 Acid Sulfate Soils. Further consideration is only required for works on Class 5 affected land within 500 metres of adjacent Class 1, 2, 3, or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

The site is approximately 140 metres from a Class 4 Acid Sulfate Soils, however as there is no major excavation proposed, the watertable is not to be lowered and therefore an Acid Sulfate Soils Management Plan is not required. The proposed development is satisfactory with regard to Clause 6.1 of the BLEP 2015.

#### *Clause 6.3 – Flood planning*

The development site is affected by low risk riverine flooding at No. 8 and 10 Cammarlie Street. The proposal has been assessed by Council's Development Engineer and has been found to be satisfactory.

#### **Proposed instruments [section 79C(1)(a)(ii)]**

There are currently no proposed instruments that have been subject to public consultation under this Act and that have been notified to the consent authority.

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

##### **Bankstown Development Control Plan 2015**

The application is subject to two sections of the Bankstown Development Control Plan 2015. The residential flat building was assessed under Section 9 of Part B1 and the multi-dwelling units under Section 7 of Part B1. The application was not required to be assessed under Part 5 Parking as Division 5 of the ARH SEPP does not require parking and overrides the BDCP 2015.

#### *Part B1, Section 9 – Residential flat buildings, serviced apartments and shop top housing*

Table 3 provides a summary of the development application against the controls contained in Section 9 – Residential flat buildings, serviced apartments and shop top housing of Part B1 of the *Bankstown Development Control Plan 2015*.

**Table 3.** Section 9 of the BDCP 2015 assessment

<b>Section 9 – Residential Flat Buildings, Serviced Apartments and Shop Top Housing</b>		
<b>DCP CONTROL</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>

<b>9.1</b>	<b>Storey limit</b> Max. 3 storeys.	3 storeys	Yes.
<b>9.4</b>	<b>Siting</b> Compatible with the existing slope and contours of the allotment and adjoining.	Responds appropriately to existing contours.	Yes.
<b>9.5</b>	Reconstituted ground level max. height of 600mm, unless the fill is contained within the ground floor perimeter, to a max. 1 metre above the natural ground level.	< 1 metre contained within the ground floor perimeter.	Yes.
<b>9.6</b>	<b>Front setback</b> Min. 6m to building wall.	6 metres.	Yes.
<b>9.10</b>	<b>Side / rear setbacks</b> Min. 4.5m provided the average setback is 0.6m x wall height.	Wall height max. 10.85m x 0.6m = 6.5m average setback. The application proposes a min. setback of 5m to the western (side) boundary, 9.19m to the eastern (side), 20m to the rear.	Yes.
<b>9.13</b>	<b>Driveway setback</b> Min. 1m.	1 metre	Yes.
<b>9.14</b>	<b>Private open space</b> Located behind front building line.	Proposed behind the front building line.	Yes.
<b>9.15</b>	<b>Demolition</b> All structures	Completed	Yes.
<b>9.16</b>	<b>Adaptable dwelling</b> An adaptable dwelling for every 50 dwellings. 22 units = 2 required.	2 provided	Yes.
<b>9.17</b>	<b>Roof pitch</b> Max. 35°.	Flat roof, max. 3°.	Yes.
<b>9.22</b>	<b>Services</b> Siting of a plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must integrate with the architectural features of the building or be sufficiently screened.	Located internally. Roof pitch appropriately integrates lift overrun	Yes.
<b>9.23</b>	<b>Car parking</b> Must locate parking behind the front building line	Parking located behind the front building line.	Yes.
<b>9.24</b>	<b>Waste</b> Min. size for waste storage Waste storage to be 1.5m from the primary frontage	Provided 1.5m	Yes. Yes.

<b>9.26</b>	<b>Landscaping</b> Min. 45% of the area between the building and the primary frontage	69% of front setback to be landscaped.	Yes.
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*Part B1, Section 7 – Multi dwelling housing in zone R2*

Table 5 provides a summary of the development application against the controls contained in Section 7 – Multi dwelling housing in zone R2 of Part B1 of the *Bankstown Development Control Plan 2015*.

**Table 5.** Section 7 of the BDCP 2015 assessment

<b>Section 7 – Multi Dwelling Housing in Zone R2</b>			
<b>DCP CONTROL</b>		<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>7.1</b>	<b>Storey limit</b> Single storey at the rear.	2 storeys	No. The non-compliance regarding height has been addressed under the consideration of Clause 4.6 of the BLEP 2015.
<b>7.3</b>	<b>Siting</b> Compatible with the existing slope and contours of the allotment and adjoining.	Responds appropriately to existing contours, partially cut into site.	Yes.
<b>7.4</b>	Reconstituted ground level is a max. height of 600mm above the ground level (existing) of an adjoining property.	<0.5 metres contained within the ground floor perimeter.	Yes.
<b>7.8</b>	<b>Side / rear setbacks</b> 5 metres for a building wall that contains a living area window or glass sliding door	Min. 5 metres	Yes.
<b>7.10</b>	<b>Private open space</b> Min. 60m <sup>2</sup> more than 5 metres throughout, behind the front building line.	Private open space is proposed behind the front building line.  Unit 23 = 67m <sup>2</sup> Unit 24 = 64m <sup>2</sup> Unit 25 = 61m <sup>2</sup> Unit 26 = 62m <sup>2</sup> Unit 27 = 62m <sup>2</sup> Unit 28 = 62m <sup>2</sup>	The proposed private open spaces include an average of 40% of the required open space to be less than 5 metres throughout, with a width of approximately 3.5 metres. This non-compliance can be supported as the layout still provides for a functional space that achieves sufficient setbacks, visual privacy and solar access.

<b>7.11</b>	<b>Solar access</b> One living area of each unit to receive a Min. 3 hours between 8.00am and 4.00pm.	All units receive > 3 hours sunlight to a living room between 8.00am and 4.00pm.	Yes.
<b>7.12</b>	One living area of the adjoining properties to receive a Min. 3 hours between 8.00am and 4.00pm	Adjoining dwellings receive > 3 hours sunlight to a living room between 8.00am and 4.00pm.	Yes.
<b>7.13</b>	Min. 50% if the POS for allotment and adjoining must receive at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox	Achieved for all units and adjoining for >50% POS.	Yes.
<b>7.15</b>	<b>Visual privacy</b> Windows that directly look into the living area or bedroom window of an existing dwelling	No windows directly look into a window of existing dwelling.	Yes.
<b>7.16</b>	Windows that directly look into the private open space of an existing dwelling	Windows that look into the POS of adjoining dwellings are from bedrooms and therefore do not require screening.	Yes.
<b>7.19</b>	<b>Demolition</b> All structures	Completed	Yes.
<b>7.21</b>	<b>Roof pitch</b> Max. 35°.	Max. 25°	Yes.
<b>7.27</b>	<b>Car Parking</b> Vehicles must be able to leave the allotment in a forward direction.	Achieved	Yes.
<b>7.28</b>	Located behind the front building line	Parking located behind the FBL	Yes.

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

There are no planning agreements or draft planning agreements have been entered into under section 93F.

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

The proposed development is consistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000*.

### **Coastal zone management plans [section 79C(1)(a)(v)]**

The site is not located within a coastal zone as defined in the *Coastal Protection Act, 1979*, and the provisions of Section 79C(1)(a)(v) therefore do not apply to this development.



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

The proposed development does not result in any loss of privacy or overshadowing and as discussed in this report any likely environmental, social and economic impacts on the locality are considered acceptable.

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

The proposed development is permitted with consent on the subject site, and represents a built form that is not incompatible with the desired future character of the locality. The proposed development will have a height, bulk and scale different to that of the existing streetscape, however this is inevitable with a residential flat building within an R2 Low Density Residential Zone. Under the provisions of the BLEP 2015 and other SEPPs there are a range of other development types permitted in the R2 zone which are of larger scale both in terms of building mass and off-site impacts than typical residential developments such as schools, community facilities, hospitals etc. These permitted development types indicate that the zone is expected to accommodate a range of different forms and scales of development subject to its compatibility with residential uses and providing that it does not adversely affect the living environment or amenity of the area. The assessment contained within this report demonstrates that the development has appropriately managed the difference in bulk and scale so that it does not have any adverse impacts on the living environment or amenity of the area and is therefore considered to be not incompatible with the residential uses.

In addition, the application was accompanied by a Site Compatibility Certificate issued by the Director General. This establishes that, in their opinion, the site is compatible with the surrounding land uses with consideration to the impact of the development on the existing uses, capacity of the existing services and likelihood of any adverse effect on the environment. Environmental matters are appropriately addressed, with the proposed tree retention and stormwater design having been examined by Council officers and supported. Therefore the site is considered suitable for the proposed development.

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

The application was advertised and notified upon lodgement for a period of twenty-one (21) days between 29 April 2015 and 19 May 2015. A total of six (5) objections were received during this period, as well as a petition with 220 signatures. Upon the lodgement of amended plans and additional information the application was subsequently re-notified for a period of fourteen (14) days between 18 December 2015 and 7 January 2016, and a total of three (3) additional objections were received. The objections made against the proposed development raise concerns relating to residential flat building's being prohibited in the zone, residential flat buildings are unsuitable for the area, non-compliance with development controls, increased density, increased housing commission occupants, traffic and parking, visual and acoustic privacy and lack of public consultation. These issues are discussed in further detail below.

### **Residential Flat Buildings are prohibited in a residential zone**

- RFB's are prohibited in an R2 Low Density Residential zone
- Council's future plans do not indicate three storey development in Cammarlie Street.

#### **Comments:**

The application has been lodged under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP) which primarily aims to increase the supply and diversity of affordable rental and social housing in the state. The plan 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.

The residential flat building component of the development is permitted under Division 5 of the ARH SEPP. Division 5 applies to development submitted by Land and Housing Corporation on land in the Sydney region that is within 800 metres of a public entrance to a railway station when the development for the purposes of a residential flat building is not permissible under another environmental planning instrument. The proposed development has been submitted by LAHC and is located on land within 800 metres of Panania station which is in accordance with these requirements.

The ARH SEPP is a state planning instrument and therefore prevails over the local planning instrument the *Bankstown Local Environmental Plan 2015* and control plan the *Bankstown Development Control Plan 2015*, however these planning provisions were considered in the assessment of this application on controls where the SEPP was silent.

### **Residential Flat Buildings are unsuitable in a residential zone**

- The surrounding area is of predominately single to two storey detached housing and there are no other RFB's in the surrounding area
- Consideration should be given to the BLEP 2015
- The development is prohibited and because it does not comply with the relevant controls it infers it is not suitable
- Clause 36 of the ARH SEPP allows consent authority discretion over 'compatibility'

#### **Comments:**

Division 5 of the ARH SEPP only allows for this type of development to be carried out with consent if the Director-General has issued a site compatibility certificate that, in the Director-General's opinion, the development is compatible with the surrounding land uses.

A site compatibility certificate was issued for the residential flat building component by the Director-General's of the Department of Planning and Environment

establishing in their opinion the development is compatible with the surrounding land uses.

Furthermore, Clause 36 states;

*(3) Nothing in this clause prevents a consent authority from:*

- (a) consenting to development on a site by reference to site and design features that are more stringent than those identified in a site compatibility certificate for the same site, or*
- (b) refusing consent to development by reference to the consent authority's own assessment of the compatibility of the development with the surrounding land uses,*

The subject site and those adjoining, are zoned R2 Low Density Residential with sites predominately occupied by single and two storey building forms. Development comprises a mix of dwelling houses, attached and detached dual occupancies and multi dwelling developments. The nature of the proposed development is similarly residential in nature and in the most part, provides for a two storey building form with the third storey being confined to the central portion of the site. While the third storey is not reflected on adjoining developments, compatibility is achieved through building materials, setbacks, visual bulk and scale and built form. The impact of the development including the bulk and scale on the surrounding uses has been appropriately managed as detailed within this report. Therefore it is considered that the proposed residential flat building is not incompatible with the surrounding land uses.

Notwithstanding, upon assessment of the application, Council required more stringent site and design features as per (3)(a) of Clause 36 (as per above). These include but are not limited to; Reducing the building and wall heights of the residential flat buildings, reducing the building height and wall heights of the multi-dwelling units to the rear, increasing the rear setback of the multi-dwelling units and to design the rear multi-dwelling units to contain a loft appearance.

### **Non-compliance with development controls**

- *Non-compliances with the BDCP 2015*
- *Non-compliances with building height as per the BLEP 2015*
- *Non-compliances with FSR as per the BLEP 2015*
- *Non-compliance with the required rear setback as per the BDCP 2015*

### **Comments**

An assessment of the proposed development against the 'rules of thumb' contained in the RFDC, as well as the relevant controls contained in the BLEP 2015 and BDCP 2005, has been provided throughout this report. All non-compliances have been appropriately considered and are deemed acceptable.

The proposed building heights of the residential flat building have been reduced from the original design, the minor non-compliances can be supported as detailed in the Clause 4.6 justification in this report. The proposed building heights of the multi-dwelling units comply with Clause 4.3 of the BLEP 2015.

Amended plans were received indicating compliance with the required rear setback of 5 metres as per Clause 7.8 of Part B1 of the *Bankstown Development Control Plan 2015*.

### **Increasing density**

- The proposed site contains 5 residential dwellings and the proposal intends for 28 dwellings, an increase of 600%

### **Comments**

The proposed development, which consists of 28 units, will result in a density of 1 unit per 112m<sup>2</sup> of site area. There are no specific controls relating to density.

### **Increased housing commission occupants**

- Concerns regarding increase to already large number of housing commission in one area to create a slum and comparisons to SBS documentary "Struggle Street".
- Safety issues regarding the background of housing commission tenants and proximity to a park where children play.
- Previous assurances that all the housing commission homes in this street would be sold off privately.
- Concerns of housing commission tenants not maintaining street presentation

### **Comments:**

The proposed tenants i.e. housing commission, is not a matter for consideration under the development application as per Section 79C of the *Environmental Planning and Assessment Act, 1979*.

### **Traffic and parking**

- Concerns for narrow street width (7.2 metres wide) in accommodating a large-scale development with existing issues such as parked cars and traffic congestion.
- Safety concerns for larger vehicles such as ambulances or fire trucks in gaining access to Cammarlie Street in emergency situations.
- Safety concerns for children trying to cross the road to use the park.
- Concerns for lack of impact studies for development

### **Comments**

Under Division 5 of the Affordable Rental Housing SEPP, car parking is not required to be provided. However, the applicant has proposed for 15 car parking spaces. As such, any potential impact on the availability of on-street car parking within the locality is in excess of what the applicant is required to provide and does not warrant refusal of the development application.

Furthermore, the application was accompanied by a Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd, dated 10 September 2015. The report was able to demonstrate the development will not have any unacceptable traffic implications on the existing road network and that it complied with the Road and Maritime Services publication *Guide to Traffic Generating Development*.

### **Visual and acoustic privacy**

- *Visual privacy impact to the rear yard of 6 Batchelor Avenue from the windows on the eastern and southern elevations*
- *Increased density causes increased noise*

### **Comments**

The proposed development provides for a sufficient setback to the property at 6 Batchelor Avenue. Specifically, the eastern elevation of the proposed development is setback from the property boundary of 6 Batchelor Ave for a distance of 9.19m to the ground floor, 9.17m to the first floor and 13.53m to the third floor which provides for significant building separation and privacy. The proposed balcony to the first floor includes privacy screening to prevent overlooking into 6 Batchelor Ave.

The proposed use is for residential purposes and is not a noise generating development and is not inconsistent with the previous residential use and the objectives of the R2 Low Density Residential Zone. Any noise associated with traffic movements in and out of the development will not be constant in terms of impact. This is considered reasonable within the residential locality.

### **Economic and environmental impacts**

- Impact on property values within the locality.

### **Comments**

There is no evidence to suggest that the proposed development will result in a direct impact on property values in the locality.

### **Public notification**

- Concerns regarding lack of notification or consultation of the application

### **Comments**

The development application was advertised and notified in accordance with Council's procedures under Clause 3.1 of Section 3 – Public Notification of Development in the Introduction part of the *Bankstown Development Control Plan 2015*.

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

Determining whether a development is in the public interest is not a product of the number of submissions in relation to the development application. Rather, the public benefit and dis-benefit of the proposal must be weighed. The provision of public housing is considered to fulfil an important community need that reduces homelessness and improves the social and economic outcomes of people in public housing. Provided the impacts of such facilities can be appropriately managed, it is considered to be in the interests of the wider community. As this report has covered, the impacts have been managed satisfactorily and the development provides for an outcome that is not incompatible with the locality, despite any differences in bulk and height to development in the area. Accordingly, the proposed development would not contravene the public interest.

### **CONCLUSION**

The Development Application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act, 1979* and the provisions of the *State Environmental Planning Policy No 55 (Remediation of Land)*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy No 65 (Design Quality of Residential Flat Development)*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Greater Metropolitan Regional Environmental Plan No 2*, *Bankstown Local Environmental Plan 2015* and the *Bankstown Development Control Plan 2015*.

The subject site fails to comply with the maximum building height, wall height and FSR requirements. The proposal is not considered to have unacceptable or unreasonable impacts on the surrounding locality and is not incompatible with the surrounding land uses. In this instance, it is considered that the development is an appropriate outcome for the site, with the proposed non-compliances adhering to the objectives of the ARH SEPP, which prevails over the BLEP 2015.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the attached conditions that have received concurrence from the NSW Land & Housing Corporation.