

ITEM	23 – 27A Marion Street and 32 Kitchener Parade, Bankstown
	Demolition of existing structures and construction of a 10-storey mixed use development and parking for Bankstown RSL and Hotel
JRPP REF.	2015SYW180
FILE	DA-1207/2015
ZONING	B4 – Mixed Use
DATE OF LODGEMENT	8 October 2015
APPLICANT	Think Planners Pty Ltd
SITE AREA	5,181m²
OWNERS	City of Bankstown RSL Community Club
ESTIMATED VALUE	\$60,270,000
AUTHOR	Development Services

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*. The proposed development has an estimated value of \$60.27 million and exceeds the capital investment threshold for '*general development*'.

DA-1207/2015 proposes the demolition of existing structures and construction of a 10-storey mixed-use development comprising new Bankstown RSL Club facilities and a 240-room hotel. The proposal relies on consolidation of the Marion Street properties with part of the southern end of 32 Kitchener Parade, which is proposed under a separate development application.

The proposed development has been assessed against *State Environmental Planning Policy No. 55 (Remediation of Land)*, the *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, *Bankstown Local Environmental Plan 2015*, and *Bankstown Development Control Plan 2015*. The application fails to comply with respect to floor space ratio, building height, and the proposed front setback. However the non-compliances are minor or technical in nature, and are appropriate in the context of the development.

The application was advertised and notified for a period of 21 days. No objections were received with respect to the proposed development.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the conditions included at Attachment 'B'.

DA-1207/2015 ASSESSMENT REPORT

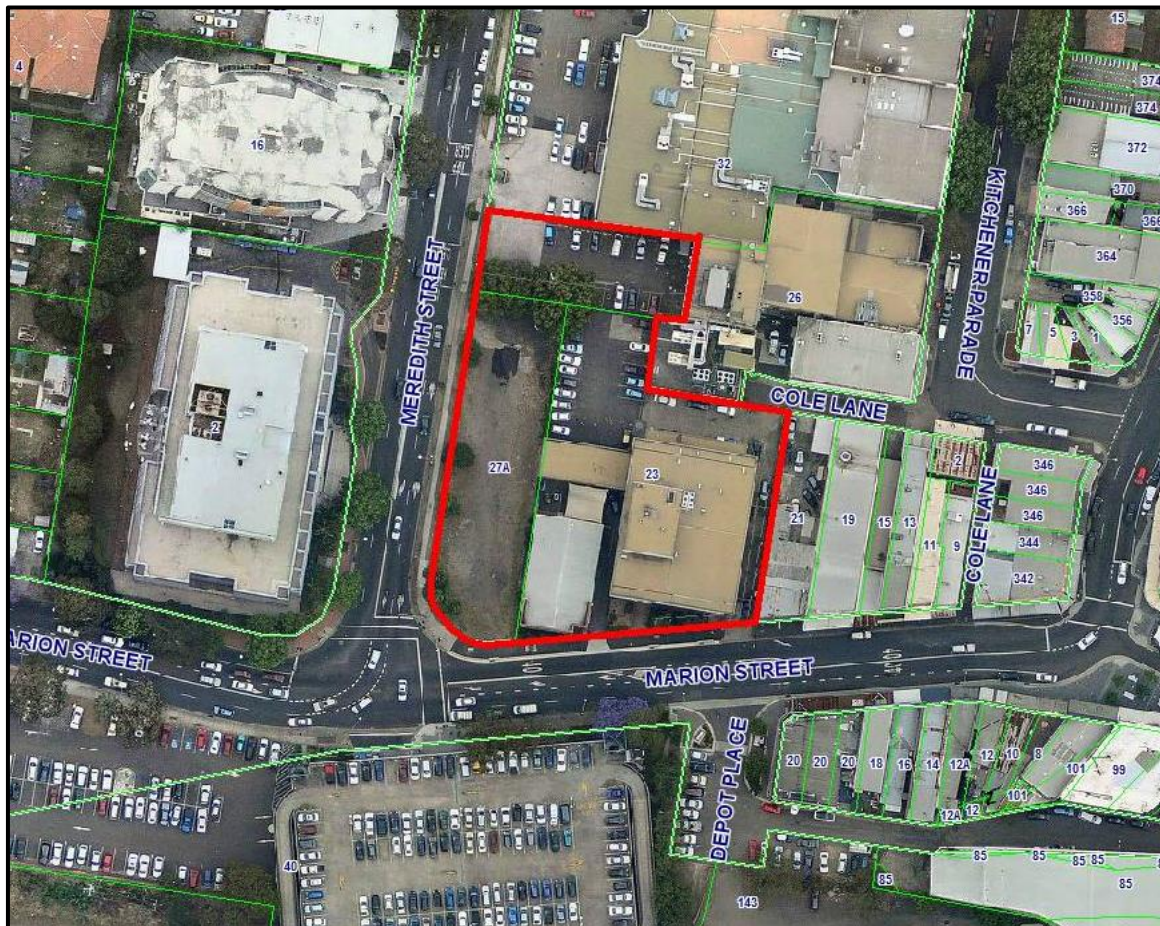
SITE & LOCALITY DESCRIPTION

The subject site is known as 23 and 27A Marion Street, Bankstown. The proposed development also involves part of the neighbouring site to the north, 32 Kitchener Parade. The consolidated development site is zoned B4 – Mixed Use, has an area of 5,181m², and has frontages of approximately 65m to Marion Street to the south, and 85m to Meredith Street to the west. The site has a frontage of 10.7m to Cole Lane services its north-eastern corner.

The development site contains two existing commercial buildings, two- and three-storeys in height. The western end of the site is vacant, with some minor, scattered vegetation.

Adjoining the site to the north is the existing Bankstown RSL Club, which comprises a large club building, bowling green, and a number of outdoor carparks. To the east are low-rise commercial buildings. Opposite the site to the south is a multi-deck parking structure and a small laneway (Depot Place). To the west is a high-rise commercial tower which is occupied by various uses including Bankstown Police and Centrelink.

The context of the site is illustrated in the aerial photo shown below.



PROPOSED DEVELOPMENT

DA-1207/2015 proposes the demolition of existing structures and construction of a 10-storey mixed-use development, comprising the following:

- New RSL Club facilities, including dining, function rooms and gaming.
- A 240-room hotel.
- A single level basement and above-ground car parking.
- Podium level restaurant space.
- Loading dock to Cole Lane.

It is noted that the proposal relies on consolidation of the Marion Street properties with part of the southern end of 32 Kitchener Parade. The subdivision of 32 Kitchener Parade is proposed under a separate development application. It is recommended that registration of this subdivision and consolidation with the Marion Street properties be required by a condition of consent included at Attachment 'B' to this report.

SECTION 79C ASSESSMENT

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

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

State Environmental Planning Policy No. 55 - Remediation of Land

SEPP 55 requires Council to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The applicant has undertaken a Preliminary Site Investigation to determine the potential for onsite contamination. The Preliminary Site Investigation reviewed the site history, including previous uses, however did not involve any soil sampling. It concludes that:

- *The findings of the assessment indicated the areas of potential concern being potential importation of uncontrolled fill that may contain various contaminants; current or past use of pesticides; current and historical land use including printing, timber and milling; garage and gas mains; electrical plant room; driveways and site surfaces where leaks and spills from cars may have occurred; and/or asbestos based building materials.*
- *The contaminants that may be present were considered to be of low to moderate significance in terms of risk to the human and environmental receptors identified.*
- *A Detailed Site Investigation is required to confirm the presence and extent of contamination in order to determine the suitability of the site for the proposed development and to address the data gaps identified.*

- *The site will be suitable for the proposed development subject to the completion of a Detailed Site Investigation (and after remediation and validation, if required).*

The Preliminary Site Investigation also provides a review of earlier reports (circa 2007 and 2008) that were prepared for a development that was approved on the Marion Street properties (i.e. did not include any part of 32 Kitchener Parade). These reports included a Preliminary Site Investigation, a Detailed Site Investigation, and a Remedial Action Plan. These earlier investigations did involve soil sampling, and found no evidence to suggest a significant potential for soil contamination at the site. The main potential for soil contamination was identified as historical building, demolition and backfilling activities, together with surface 'rubbish'. The RAP recommended removal of contaminated soils and 'bonded' asbestos for disposal off-site, and validation of residual soils intended to remain onsite.

Given the above findings, it is considered that widespread or significant site contamination is unlikely. Moreover, it is expected that any contamination identified within the development site would be remedied through the proposed basement excavation and associated works. It can therefore be concluded that, according to Clause 7 of SEPP 55, the site will be suitable for the proposed use following remediation. It is recommended that the further Detailed Site Investigation, and any necessary remediation and validation works, be required by conditions of consent to be included at Attachment 'B' to this report.

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

The subject site is located within the Georges River Catchment and accordingly the REP applies. The proposed works are consistent with the relevant planning principles outlined in the REP, and do not propose any of the specific development types listed in the '*planning control table*'.

Bankstown Local Environmental Plan 2015

The proposed development is satisfactory with regard to the relevant provisions of the Bankstown Local Environmental Plan 2015 (the LEP), including the following:

Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the BLEP 2015:

- (g) *to provide a range of business and industrial opportunities to encourage local employment and economic growth;*
- (h) *to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown;*
- (i) *to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety;*
- (j) *to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network;*

- (k) *to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network;*
- (l) *to enhance the quality of life and the social well-being and amenity of the community.*

Clause 2.3 Zone objectives and Land Use Table

The site is located in Zone B4 – Mixed Use, which permits development for the purposes of 'registered clubs', 'hotel or motel accommodation' and 'restaurant'. The elements that make up the proposed development fall within these definitions and are therefore permitted with consent at the subject site. Moreover, the proposal is consistent with the objectives of the B4 zone, being:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To maintain the role of the Bankstown CBD as a major metropolitan centre.*

Clause 4.3 Height of buildings

According to the LEP Height of Buildings Map, there are two separate maximum building height standards that apply to the development site.

Firstly, for the northern end of the development site that includes part of 32 Kitchener Parade, the maximum permitted building height is 47m. The proposed maximum building height over this part of the development site is 35m which complies.

Secondly, for the balance of the development site (i.e. the properties 23 and 27A Marion Street) the maximum permitted building height is 35m. The northern and eastern ends of the proposed development comply with the maximum building height, however as the proposed building approaches the corner of Marion and Meredith Streets it projects above the maximum 35m, contravening the building height standard by up to 1.5m. The applicant has submitted a written request according to the provisions of Clause 4.6 of the BLEP in support of the proposed building height departure, which is discussed later in this report.

Clause 4.4 Floor space ratio

According to the LEP Floor Space Ratio Map, there are two separate floor space ratio standards that apply to the development site.

Firstly, for the northern end of the development site that includes part of 32 Kitchener Parade, the maximum permitted floor space ratio is 2:1 (a 3:1 maximum is allowed if a public 'mid-block' connection is provided over 32 Kitchener Parade, however this connection is not proposed hence the 2:1 maximum). The proposed floor space ratio over this part of the development site is 1.02:1 which complies.

Secondly, for the balance of the development site (i.e. the properties 23 and 27A Marion Street) the maximum permitted floor space ratio is 3:1, provided a width of at least 18m is provided at the front building line. The BLEP defines '*front building line*' as '*the shortest line the consent authority is satisfied is the minimum setback a building should be from the road alignment*'. Nil setbacks are permitted at the subject site, thus the 10.7m frontage to Cole Lane technically qualifies as the minimum width of the site. The maximum floor space ratio is therefore 2:1.

The proposed floor space ratio over this part of the development site is 3.14:1 which contravenes this development standard. The applicant has submitted a written request according to the provisions of Clause 4.6 of the BLEP in support of the proposed floor space ratio departure, which is discussed later in this report.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the BLEP allows consent to be granted for development despite contravention of a development standard, however only where a satisfactory written request has been provided by the applicant. The applicant is seeking contravention of two development standards under this development application and has submitted a written request for each.

Maximum building height

As noted above, the proposed development exceeds the maximum 35m building height that applies to the part of the development site that includes 23 and 27A Marion Street. The applicant provides the following justification for the contravention of this development standard:

- *The design of the building ensures that the habitable floor space is contained below the maximum building height. The variation stems from treatment of the corner element.*
- *The area of non-compliance is of a minor nature, noting that its impact to the streetscape is negligible as it will be visually unnoticeable when viewed from the street level.*
- *The extent of variation relates to a minimal area of the building and façade treatment and does not discernibly increase privacy or overshadowing impacts to adjoining properties.*
- *The majority of the building complies with the building height control.*
- *The development aims to present a strong and attractive interface that addresses the site's prominent corner location whilst improving street level activation and legibility of the area for pedestrians.*

The applicant's justification is satisfactory, and adequately addresses the relevant matters under Clause 4.6 of the BLEP. It is therefore recommended that the proposed contravention of the building height standard be accepted.

Floor space ratio

As noted above, the proposed development exceeds the maximum 2:1 floor space ratio that applies to the part of the development site that includes 23 and 27A Marion Street. The applicant provides the following justification for the contravention of this development standard:

- *The site's frontage to Cole Lane is constrained by an easement that prevents the building having any street frontage to Cole Lane. The primary purpose of Cole Lane is a service lane to provide loading and parking opportunities for narrow fronted properties to Marion Street.*

- *The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.*
- *The proposal involves the consolidation of allotments to create a 5,181m² development site that is consistent with the objectives of the FSR clause as the site is an appropriate size to facilitate a higher quality built form and urban design outcome.*
- *The BLEP envisions the precinct being developed with a maximum floor space ratio of 3:1. The development proposes a floor space ratio of 2.81:1 that is consistent with this control.*
- *Given that the building will not be highly visible from Cole Lane, the technical departure will not be discernible when viewed from Cole Lane. The bulk and scale of the proposal is not materially or noticeably different from a compliant scheme.*
- *The proposal is consistent with the desired future character of the locality.*
- *The general form of the development is of a high quality and represents good quality architectural design, with appropriate levels of bulk and scale that are focused to the two primary street frontages of Marion Street and Meredith Street.*
- *The proposal ensures that the commercial nature of the zone is retained and there is not a significant change to the character of the locality.*
- *The proposal complements and enhances the local streetscape by virtue of its setting to both Marion Street and Meredith Street by providing a quality street address to both these frontages.*
- *The proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances.*

The applicant's justification adequately addresses the relevant matters under Clause 4.6 of the BLEP. While Cole Lane technically qualifies as the front building line, in a practical sense the front building line can reasonably be taken to be at the Marion and/or Meredith Street frontages, both of which are of sufficient width to support a higher floor space ratio. It is therefore reasonable to consider a maximum 3:1 floor space ratio for the Marion Street properties. When this 3:1 floor space ratio is applied, together with the maximum 2:1 for 32 Kitchener Parade, the consolidated development site (all of which is zoned B4 – Mixed Use) is able to support a total gross floor area of up to 14,746m².

The proposed development has a total gross floor area of 14,566m² and represents an appropriate distribution of floor space across the development site. Despite being technically non-compliant, directing the bulk of the floor space toward the Marion and Meredith Street intersection strengthens the corner and achieves a high quality urban design and built form outcome. The proposal is therefore considered to be in the public interest, and contravention of the floor space ratio standard is warranted in this case.

Clause 6.9 Restrictions on development in Zone B4 – Mixed Use

This clause applies to the subject site and requires that the ground and first floor of a development be used for the purposes of commercial premises or other non-residential purposes. The proposed development contains club facilities (dining, function and gaming spaces), amenities and car parking at the ground and first floors and complies with this requirement.

The proposal to accommodate above-ground car parking was questioned by the Panel at the Briefing Meeting held on 18 November 2015. Concern was raised around whether this approach is appropriate for a site in the CBD, and whether genuine activation (including the function of these spaces as well as their presentation) can be achieved. Urban design advice was commissioned by Council to assist the review of this issue, which states that if proposed, above-ground car parking should:

- be screened in a manner that is an integral part of the external design;
- be screened in a manner that conceals the parking with architectural screens or devices that consider both backlit night quality and day time visual qualities;
- not occur in areas of high visibility or pedestrian activity; and
- only be permissible where it is designed to be easily adaptable to other future uses.

The urban design advice also makes a number of recommendations concerning the design of the development, including the following:

- Provision of a major void at the corner of Marion and Meredith Streets, through Levels 1 – 4, to provide a dramatic ‘gateway’ to the CBD. The proposed copper screen device could be retained, however the louvres behind should be replaced with glazing so the void space can be perceived at night.
- Enlargement of the hotel lobby / foyer at ground level to accommodate a small concierge desk / station with a small storeroom.
- Provision of an external lighting design that ensures the carpark interior does not become the dominant feature of the building facade.
- A louvre design (for the screen behind the decorative copper façade) that maximises density and utilises a ‘Z’ section profile that takes into consideration viewing angles from street level.
- ‘Back-of-house’ changes to improve serviceability and efficiencies for the hotel and club operations.

The proposed development has been amended to address the above requirements. It is Council’s view that, despite the provision of above-ground car parking, the design approach to the site is acceptable and would not unreasonably compromise the activation or presentation of this corner CBD site. Accordingly it is recommended that the proposed scheme be accepted by the Panel, and the design detail shown in the plans be confirmed by conditions of consent included at Attachment ‘B’ to this report.

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

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

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

Part A1 – Centres

The following table provides a summary of the development application against the key development controls contained in *Part A1* of the *Bankstown Development Control Plan 2015*.

CONTROL	BDGP 2015 PART A1	
	PROPOSED	COMPLIES?
Nil setback allowed to Marion Street.	Nil setback.	Yes.
Minimum 3m setback to Meredith Street.	Nil setback.	No.
Retain 32 Kitchener Parade as a single allotment.	Minor part at southern end of 32 Kitchener Parade to be consolidated as part of the development site. Balance of 32 Kitchener Parade to be retained as a single allotment.	Yes.
Development at corner sites must ensure the car parking area is not visible to the street, or does not present as blank walls to the street.	Above-ground car parking is proposed, however treatment of the building façade ensures this is not a 'visible' feature of the development. No expanse of blank building wall is proposed.	Yes.

The proposed development complies with the relevant controls in the DCP, except for the proposed setback to Meredith Street. Clause 2.1 requires a minimum 3m setback for this part of the site, however a nil setback is proposed.

The applicant submits that the proposed nil setback is intended to '*improve legibility and establish a street edge that will contribute towards reinforcing the urban character*', and '*strengthen the pedestrian amenity and activity at street level*'. It is agreed that a nil setback is appropriate in this case, in particular having regard to the proposed use and the desire for an active street frontage. The DCP allows a nil setback to Marion Street, and by continuing this nil setback around to Meredith Street the proposed development would reinforce the corner and give the building a strong architectural presence.

Part B5 – Parking

The schedule of parking standards in the DCP specifies a rate of 1 space per unit and 1 space per 2 employees for ‘*hotel or motel accommodation*’. However no rate is specified for a ‘*registered club*’ or a ‘*restaurant*’ in the CBD. For these uses the DCP states that a parking study is to be submitted.

The application is accompanied by a report from a qualified traffic consultant that examines the car parking demands of the proposed development. Parking demand for the proposed club has been based on surveys of the existing club operations within the current facilities located immediately to the north of the development site. Demand for the proposed hotel has been based on the RMS rate for a ‘*tourist hotel*’. This rate is distinct from, and less than, that for a ‘*motel*’, and is also less than the DCP requirements. The report finds that:

- *The peak demand for the public floor area of the club equates to a parking rate of 1 space per 18.6m² (210 spaces), which is within the typical range for a large club based on other studies.*
- *The RMS parking rate for a motel is as per the Bankstown DCP rates of 1 space per room plus 1 space per 2 staff, however for a tourist hotel (such as the subject development) the guide recommends a rate of 1 space per 4 bedrooms.*
- *The development proposes a total of 391 parking spaces. The proposed parking provision satisfies the minimum requirement for the club of 210 spaces, and provides an additional 181 spaces for the hotel demand (i.e. 60 spaces) and seasonal fluctuations.*
- *The development will contain all parking demands within the site and in particular, it meets the RMS parking requirements for a tourist hotel and the expected peak parking requirement for the club.*
- *The proposed car park complies with the requirements of AS 2890.1 (2004) and operates safely and efficiently.*
- *The critical intersection of Marion Street / Meredith Street will continue to operate satisfactorily with a Level of Service B and with moderate delays in the PM peak hour.*
- *The traffic generation arising from the proposed development has a net increase in 45 vehicles per hour for the PM peak period, with a negligible change in the AM peak. The additional trips can be readily accommodated, with minimal impacts on the surrounding road system.*

The rationale and findings outlined in the report are accepted. The proposed car parking provision is appropriate for the development and its intended uses, and the proposal is not expected to have any unreasonable impact on the local road network.

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

There are no planning agreements applicable to the proposed development.

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

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

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

It has been demonstrated that the proposed development would not have any unreasonable or unacceptable environmental, social, or economic impacts on the surrounding locality.

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

The site is suitable for the proposed development. It is permitted with consent in the B4 – Mixed Use zone and is considered an appropriate design response to a prominent corner site in the Bankstown CBD.

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

The application was advertised and notified for a period of 21 days. No objections were received with respect to the proposed development.

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

Having regard to the matters discussed in this assessment report, it is considered that the proposed development would not contravene the public interest.

CONCLUSION

DA-1207/2015 has been assessed according to the provisions of *State Environmental Planning Policy No. 55 (Remediation of Land)*, the *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*, *Bankstown Local Environmental Plan 2015*, and *Bankstown Development Control Plan 2015*.

The proposed development is within the zoning and land-use framework established for the site and demonstrates a high quality architectural form. A number of departures are proposed from the relevant planning controls, however these are either technical departures or are the outcome of the design response which is appropriate in the context of the site. No public submissions have been received with respect to the proposed development, and no adverse impacts on the surrounding locality are expected.