



24 March 2016

Mr Sindhu Kaphle
Development Assessment Officer
Bankstown Council
PO Box 8
BANKSTOWN NSW 1885

Dear Sindhu,

**Re: Development Application: 1495/2015
Construction of a ARHSEPP Residential Flat Building containing 32 units at 23 -27
Marshall Street, Bankstown**

I refer to the above development proposal and Council's letter dated 14 March 2016 about the proposal. As a result of this letter amended architectural and landscape plans have been prepared and are attached to this correspondence.

This letter responds to the issues raised in this correspondence:

1. Private Open Space for unit 6

The letter raises concern that unit 6 is not provided with an open space area that has a minimum dimension of 3m.

To address this, additional private open space has been provided to unit 6 and it is now provided with an area that has a minimum dimension of 3m. Please refer to the attached architectural plans.

Given the amendments made, this issue is considered to have been satisfactorily addressed.

2. Building Height

Council's advice that both staff and the JRPP do not consider it appropriate to call the features that protrude above the 13m height limit, architectural roof features is noted. The revised development has a maximum height of 13.25m.

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The variation is primarily as a result of the topography of the site and the need to appropriately accommodate the 'bonus' floor space provided by the ARHSEPP due to the provision of 16 affordable housing units within the complex.

As this is an LEP departure, a clause 4.6 departure is attached to this letter that discusses why it is appropriate to vary the development standard in this instance.

3. Front Landscaped Area

Council's letter raises concern that the proposal does not appear to comply with the requirements of clause 9.24 of the Bankstown DCP 2015 as less than 45% of the area forward of the building is landscaped. It is also noted that the JRPP raised concern about the lack of landscaping area provided along both Street frontages.

As a result of this concern the architectural plans have been amended to remove a surplus carparking space and surplus storage space (fronting De Witt Street) from the basement and additional deep soil landscaping provided to the street frontages of the site. As a result of the lowering of the building by 300mm, the disabled access ramp has also been deleted from the proposal.

These changes have resulted in the development exceeding compliance with the 45% landscaped control along both Marshall Street and DeWitt Street.

Given the above, this issue is considered to be satisfactorily addressed.

4. Temporary Bin Storage Area

Council's letter raises concern that the temporary bin storage area will not be adequate to cater for demand generated by the development.

As suggested we have discussed this your Waste officer and additional storage areas have been provided that will cater for the waste generated by the development.

Given the above, this issue is considered to be satisfactorily addressed.

5. Podium

Council's letter notes that the JRPP raised concern about the podium and the extent that it protruded above natural ground level.

As a result of these concerns the basement, ground level of the building and its overall height has been lowered by 300mm, a wheelchair ramp has been removed and a surplus carparking space deleted from the basement carpark. Given these

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amendments the proposal no longer has a podium protruding towards the street corner of the development and an effective landscape setting is provided that will ensure that the development is viewed as an apartment building in a garden setting.

Given the above, this issue is considered to be satisfactorily addressed

6. Public Submissions

Council letter requests that we address issues raised in the four submissions lodged to the proposal and provides a summary of issues raised. A summary of the issues raised and our response is provided in the following table.

Key Issue Raised	Response
<i>Traffic will unacceptably increase as a result of the development and will impact on the intersection of De Witt and Marshall Street</i>	<p>The traffic report has assessed the impact of the proposal and indicates that it likely to generate an additional 7 vehicle movements per hour.</p> <p>The report concludes that:</p> <p><i>The projected increase in traffic activity as a consequence of the development proposal is minimal, consistent with the zoning objectives of the site and will clearly not have any unacceptable traffic implications in terms of road network capacity.</i></p>
<i>Inadequate parking provided</i>	<p>The development contains 32 units and provides 32 carparking spaces. Given that 16 of the units will be occupied by affordable housing tenants for at least a 10 year period, who are likely to have lower car ownership rates and noting that the site is located approximately 800m south of the southern edge of Bankstown Town Centre and that a bus stop with regular services to Canterbury, Roselands, Bankstown, Liverpool and Burwood is located on Chapel Road which is within 250m of the subject site, it is considered that sufficient carparking has been provided to meet the need of future occupants.</p> <p>It is also noted that the ARHSEPP indicates that if 30.5 carparking spaces are provided to this development, then the lack of parking cannot be used as a grounds of refusal. The development provides 32 spaces which exceeds this minimum criterion.</p>

<i>Access for Waste Collection Vehicles will be difficult</i>	As bins will be temporarily stored on the Marshall Street frontage of the site on collection day, it is considered that appropriate access will be provided on Marshall street that allows the collection of garbage and recyclables from the site.
<i>Tree Removal</i>	The proposal seeks approval for the removal of 5 trees and proposes the planting of 19 trees capable of growing to more than 5m in height. Given this and noting that the proposal retains the majority of street trees in front of the site, the landscaped setting of the area will be considerably enhanced as a result of this development.

Given the above it is not considered that the proposal warrants further amendments to address the concerns raised in the submissions.

7. Community Housing Provider

The letter requests that a written undertaking be provided from a Community Housing Provider that they have the ability to manage the 16affordable units in the development.

According to the Community Housing website there are eight Potential Community housing providers that service this part of Sydney including:

- Evolve Housing;
- Argyle Community Housing;
- Community Housing Limited;
- Ecclesia Housing;
- Hume Community Housing;
- MA Housing;
- St George Community Housing; and
- Wentworth Community Housing.

Given the number of potential service providers that could manage the 16 units it is not considered necessary to provide a letter from one or more of them that they have the ability to manage the units. It is considered more appropriate that conditions be imposed on the consent requiring a Community Housing Provider to be engaged prior to the issue of the occupation certificate.

We trust that the amended plans and information satisfactorily address Council's concern and request that any remaining issues be conditioned. We look forward to the matter being considered at a JRPP meeting in April 2016

Should you have any questions regarding the proposal, I can be contacted on 0405 530 095.

Regards,

Brad Delapierre
Planning Manager
Think Planners Pty Ltd

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Appendix A: Clause 4.6 Departure –Height

As addressed previously within this letter and as evident in the section extract below and the architectural plans submitted with the amended application, the proposed development will comprise a four storey residential flat building that predominantly complies with the permitted maximum 13m building height. However as illustrated below approximately some of the roof top skylights protrude above the 13m control. The top of the celestial skylights have a height of 13.25m and exceeds the control by 25mm or 1.9%.

This is illustrated by the section extract below:



Clause 4.6 of The Bankstown Local Environmental Plan 2015 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular sub clause 3-5 which provide:

(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.*

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

- (a) the consent authority is satisfied that:*

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- (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*
- (b) the concurrence of the Secretary has been obtained.*

- (5) In deciding whether to grant concurrence, the Secretary must consider:*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Each of these provisions are addressed in turn.

Clause 4.6(3)

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved.

The objectives of the building height development standard are stated as:

- (1) The objectives of this clause are as follows:*
- (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 current development proposal seeks to depart from the height control for small portions of the roof. Despite this, the proposal remaining consistent with the objectives of the clause and is a more appropriate outcome on the site because of the following:

- The overall height of the development presents as a compatible form of development with only the recessed skylights exceeding the height limit. Given that it is the skylights that that encroaches, its visual dominance when viewed from the public domain and adjoining properties presents as a 4 storey

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building which aligns with the intent of the planning controls contained within Bankstown DCP 2015;

- The provision of skylights improves the amenity of future occupants of the units as it increases the amount of natural light received within the living areas of these units;
- The portion of the building that exceeds the height control does not contain any habitable floorspace that could indicate that the height breach is an intent to increase the FSR of the site and potentially represent an overdevelopment of the site. It is also noted that the proposal will not obstruct existing view corridors as compared to a compliant built form;
- The skylights will not be visible from the street or adjoining properties and accordingly will not increase the visual impact of the development as compared to a compliant built form;
- The celestial skylights will not increase overlooking opportunities towards adjoining properties as compared to a compliant built form;
- The extent of variation does not contribute to any increase in overshadowing (hence the extent of impact is as per the impact generated by the permitted building envelope); and
- The minor non-compliance to the height control has no unacceptable impact on the setting of any items of environmental heritage or view corridors;

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the minor departure from the control.

The unique circumstances of the case that warrant support of the departure are:

- The need to appropriately accommodate the additional floorspace provided to this development due to the provision of 16 affordable housing units. This has been achieved without having ceilings of units protrude above the height plane; and
- The breaching of the height plane through the provision of celestial skylights improves the amenity to future occupants through the provision of increased natural light.

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Clause 4.6(4)

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the R4 Zone, being:

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

The proposal ensures that the high density nature of the zone is retained and there is not a significant change to the character of the locality. In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development. As addressed previously the proposal presents as a 4 storey form that provides a quality address its two street frontages.

It is understood that the concurrence of the Secretary can be assumed in the current circumstances.

Clause 4.6(5)

As addressed it is understood the concurrence of the Secretary may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality.

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances.

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.

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The proposal will not have any adverse effect on the surrounding locality, which has been earmarked for future high density development by virtue of its R4 Zoning. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed

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