

ITEM	23-27 Marshall Street, Bankstown
	Demolition of existing site structures and the construction of a four (4) storey residential flat building containing thirty-two (32) residential units over basement level parking under State Environmental Planning Policy (Affordable Rental Housing) 2009
FILE	DA-1495/2015 (JRPP Ref: 2016SYW026)
ZONING	R4 – High Density Residential
DATE OF LODGEMENT	15 December 2015
APPLICANT	Zhinar Architects
OWNERS	Chong U Son, Sonye Ko and Il-Tae Kim and Mrs Su-Mi Kim
ESTIMATED VALUE	\$6,430,436
SITE AREA	1,838m²
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 capital investment value of \$6,430,436 which exceeds the capital investment threshold of \$5 million for Affordable Housing under Schedule 4A(6)(b) of the *Environmental Planning and Assessment Act, 1979*.

Development Application No. DA-1495/2015 proposes the demolition of existing site structures and the construction of a four (4) storey residential flat building comprising of thirty-two (32) residential units and a 32 space basement car park. The application is lodged pursuant to the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, with 50% of the proposed units nominated as 'affordable housing'.

The Development Application has been assessed against *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy No. 55 - Remediation of Land*, *State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)* including the Apartment Design Guide, *State*

Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, 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 strictly comply with respect to building height, setbacks and location of private open space. The assessment of the development application has found that these variations are justified in the circumstances of this case, in the context of both the overall development and the surrounding locality.

The application was advertised and notified for a period of twenty one (21) days, from 13 January 2016 to 2 February 2016. A total of four (4) submissions were received, which raised concerns relating to traffic, parking, access for waste collection vehicles, removal of trees, impact on views, solar access, privacy and concerns relating to safety, traffic and noise during construction.

POLICY IMPACT

This matter has no direct policy implications as the proposal complies with BLEP 2015 and BDCP 2015, with variations limited to a minor encroachment to building height and setbacks and location of private open space. The development achieves good urban design and is considered appropriate in the context of the site, and would not set a precedence for development elsewhere in the LGA.

FINANCIAL IMPACT

This proposed matter has no direct financial implications.

RECOMMENDATION

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

DA-1495/2015 ASSESSMENT REPORT

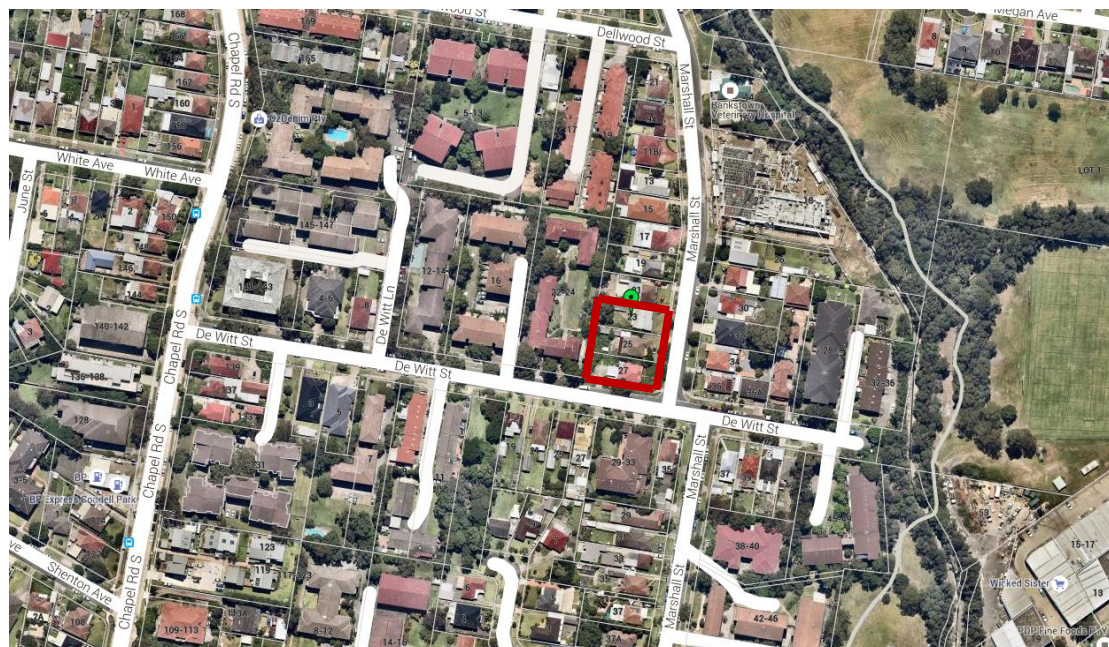
SITE & LOCALITY DESCRIPTION

The subject site is known as 23–27 Marshall Street, Bankstown and is located at the north-western corner of Marshall Street and De Witt Street. The site is currently zoned R4 – High Density Residential. The consolidated development site has an area of 1,838m² and street frontages of 45.7m to Marshall Street and 40.2 to De Witt Street.

The site contains three single-storey dwellings with outbuildings in the rear yards. The site has a slope of approximately 1.66m from the western boundary to the eastern boundary and contains some trees towards the north-western part of the site, which are proposed to be removed. The trees are of exempt variety under Council's Tree Preservation Order and may be removed at any time without Council's permission.

Surrounding developments consist of a detached single storey dwelling to the north. To the west is a 3-storey residential flat building built over a car park podium. To the south on the opposite side on Marshall Street is a 3 storey residential flat building and a detached single storey dwelling. To the east across Marshall Street are single storey dwellings and a dual occupancy development. There are two residential flat buildings currently under construction at 18-24 Marshall Street and 1-5 Marshall Street north of the site.

The site locality is illustrated in the aerial photo below.



Source: nearmap

PROPOSED DEVELOPMENT

Development Application No. DA-1495/2015 proposes the demolition of existing site structures and the construction of a four (4) storey residential flat building comprising of thirty-two (32) residential units, with basement car parking, lodged under *State Environmental Planning Policy (Affordable Rental Housing) 2009*, and will involve the following works:

- Demolition of existing structures and removal of trees.
- One (1) level of basement parking for a total of thirty two (32) parking spaces for residents, including two (2) disabled car spaces and ten (10) bicycle spaces.
- Construction of a four (4) level building containing thirty two (32) units, comprising of three (3) x one (1) bedroom units and twenty nine (29) x two (2) bedroom units.

Vehicular access to the basement car park is provided from Marshall Street located towards to the northern end of the site.

A perspective of the proposed development from the street corner is attached below.



Sixteen (16) of the proposed units will be allocated as Affordable Rental Housing Units, which equates to 50% of units and 44.6% of the total gross floor area of the development. A condition of consent will be imposed to ensure those units are allocated as affordable rental housing units, supported by way of a restriction on title.

Matters raised during JRPP briefing

The following matters were raised by the JRPP members during the initial briefing of the development proposal:

- *Need to increase the landscape area along the frontages*

The landscape area has been increased along both street frontages by:

- Lowering the building by 300mm and, as a consequence, deleting the disabled access ramp, no longer required.
 - Removing a surplus car space and surplus storage space from the basement.
- *The lift overrun, in the proposed design, could not be regarded as an architectural roof feature.*

The building has been lowered so that the lift overrun now is contained within the stipulated height limit.

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 (Affordable Rental Housing) 2009

Division 1 of the SEPP applies to development for the purposes of 'residential flat buildings' on land that is located in an 'accessible area'. According to the definitions contained in the SEPP:

'accessible area' means land that is within 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

It has been demonstrated that the subject site is located within 250m of a bus stop in Chapel Road that meets the required services. Accordingly Division 1 of the SEPP applies. Compliance with the relevant standards is outlined in the table below.

Clause	Requirement	Proposal	Complies
10 – Development to which Division applies	1(a) the development concerned is permitted with consent under another environmental	The proposal is identified as 'Residential Flat Building' which is permitted with Council consent under the BLEP 2015 in the R4 –	Yes

	planning instrument, and	High Density Residential.	
	1(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <i>Heritage Act 1977</i> .	The development is on land that does not contain a heritage item nor is it in the vicinity of a heritage item.	Yes
	(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.	The site is located within 250 metres of a bus stop in Chapel Road and satisfies 'accessibility' requirements under ARHSEPP.	Yes
	(3) Despite subclause (1), this Division does not apply to development on land that is not in the Sydney region unless all or part of the development is within 400 metres walking of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.	-	N/A
13 - Floor space ratios	(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purpose of affordable rental housing is a least 20 per cent.	44.6% of the gross floor area is to be used for the purpose of affordable housing. The units that have been identified to be used as affordable units are four units at ground level (Units 4, 6, 7 & 8), eight units at first floor level (Units 9 to 16) and four units (Units 17 to 20) at second floor level.	Yes
	(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to	Permitted floor space is 1:1, plus Y Where $Y = AH / 100$ $AH = 44.6\%$ or $0.446:1$ Total permissible = $1.446:1$ Total proposed = $1.445:1$	Yes

	occur, plus:		
	ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where: AH is the percentage of the gross floor area of the development that is used for affordable housing. $Y = AH \div 100$	-	N/A
14- Standards that cannot be used to refuse consent	(a) Repealed	-	-
Site and solar access requirements	(b) Site Area Minimum 450m ²	1838m ²	Yes
	(b) Landscaped Area at least 30 per cent of the site area is to be landscaped	30.6% is to be landscaped	Yes
	(c) Deep Soil Zone 15% of total site area	21.5% of the total site area contains deep soil zones	Yes
	(d) Solar Access Min 70% of dwellings to receive min 3hrs solar access between 9am and 3pm in mid-winter	71.8% of the dwellings receive required solar access	Yes
(2) General	(a) parking at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,	1 bed x 3 (0.5 spaces each unit) = 1.5 spaces 2 bed x 29 (1 space each unit) = 29 spaces Total spaces required = 30.5 (31) Total spaces provided = 32	Yes
	b) dwelling size <ul style="list-style-type: none"> • 50 square metres in the case of a dwelling having 1 bedroom, or • 70 square metres in the case of a dwelling having 2 bedrooms, or • 95 square metres 	All units meet the minimum requirements	Yes

	in the case of a dwelling having 3 or more bedrooms.		
15 -Design Requirements	Consideration of Seniors Living Policy: Urban Design Guidelines for Infill Development	The Seniors Living Policy is not applicable as State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies	N/A
16A -Character of Area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the area.	<p>The site is zoned R4 – High Density Residential in which residential flat buildings up to four storeys in height are permitted.</p> <p>The locality of the site is an area under transition. A number of detached dwellings exist, however the emerging development type is high density residential, with examples of existing residential flat developments to the west and to the south of the site.</p> <p>The proposed building is considered to be compatible with the existing character of the locality and reflective of the desired future character given that the surrounding area is zoned for high density residential.</p>	Yes
17- Must be used as affordable housing for 10 years	The dwellings are to be used for the purposes of affordable housing and managed by a registered community housing provider	A condition of consent will be imposed to ensure compliance with this clause.	Yes
18- Subdivision	Land on which development has been carried out may be subdivided with consent of the consent authority	Subdivision is not sought as part of DA	N/A

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

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land specifies that 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 subject site has long been used for residential purposes and the development application proposes to continue the use of the site for residential purposes. There is no evidence to suggest that the site is contaminated, nor is it considered necessary for any further investigation to be undertaken with regard to potential site contamination. The subject site is considered suitable for the proposed residential use and therefore satisfies the provisions of SEPP No. 55.

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

The subject site is located within the Georges River Catchment and accordingly GMREP No. 2 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 under the '*planning control table*'.

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

In assessing an application that contains four or more self-contained dwellings in a building of at least three storeys in height, Council is required to consider the provisions of SEPP 65. SEPP 65 aims to improve the design quality of residential flat buildings and provides an assessment framework, the Apartment Design Guide for the assessment of applications under which this is considered. The proposal is consistent with the design quality principles contained within the policy, which promotes development that is of good design, appropriate context, scale and density given the desired future character of the area.

Clause 50(1A) of the EPA Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This document has been submitted and is considered to satisfy the submission requirement.

The SEPP requires the assessment of any Development Application for residential flat development against the design quality principles and the matters contained in the publication Apartment Design Guide (ADG). As such, the following consideration has been given to the requirements of the SEPP.

1. Context and neighbour character

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

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

The immediate surrounding area is characterised by a mixture of residential development types, ranging from single dwelling development to residential flat developments. The proposal is considered to be compatible with the existing and future character of the area, and will contribute to the quality and identity of the immediate area.

2. Built form and scale

The proposed development is compliant with the applicable floor space ratio and consistent with all other planning policies. It is considered that the scale of the development is consistent with that envisaged by the planning controls.

As stated above, the proposed development is considered to be consistent with the desired future character of the area in terms of its bulk and scale. The design of the development is appropriate for the site and the proportions of the building and its overall design and treatment is considered acceptable.

3. Density

The proposed development has a total FSR of 1.445:1 which complies with the maximum permitted 1.446:1 floor space ratio.

4. Sustainability

The development is subject to State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and requires a BASIX Certificate to be obtained. The development achieves satisfactory performance in respect to BASIX measures of energy efficiency, water conservation and thermal comfort.

The development satisfies open space, deep soil zones, natural ventilation and solar access requirements and provides a mix of bedroom sizes consisting of one and two bedroom units, including sixteen affordable units, providing a range of choice and housing affordability.

5. Landscape

The development provides approximately 563m² of landscaping and common open space on the ground level which is accessible from the ground floor of the development.

6. Amenity

The development satisfies natural ventilation, solar access and privacy requirements. It also provides a suitable mix of unit types.

7. Safety

Physical and visual barriers provide separation between public and private spheres. Ground floor dwelling units which address De Witt Street are provided with direct access from the street. Further, the main entrance is clearly visible in the front façade and there is a clear definition between public and private spaces.

8. Housing diversity and social interaction

The site is located within a R4 – High density residential zone and the development provides an appropriate mix of unit sizes and types to cater for the community's lifestyle and housing needs, including 50% of the units provided as affordable housing.

9. Aesthetics

The overall appearance of the proposed development is considered acceptable.

Apartment Design Guide

The Apartment Design Guide was released in 2015 and applies to the development. It is described as “a resource to improve the planning and design of residential apartment development in NSW”, and must be considered in the assessment of the development application.

Specifically, Clause 28 of SEPP 65 calls up the Apartment Design Guide and states:

- (2) *In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
- (a) *the advice (if any) obtained from the design review panel, and*
 - (b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
 - (c) *the Apartment Design Guide.*

An assessment of the application against the controls contained in the Apartment Design Guide follows.

DESIGN CRITERIA	PROPOSED	COMPLIANCE
<p>3B-2 Overshadowing of neighbouring properties</p> <p>Solar access to living rooms, balconies and private open space of neighbours should be considered</p> <p>Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures that solar access to neighbouring properties is not reduced by more than 20%</p>	<p>The majority of the shadows fall on the streets. The overshadowing of the adjoining flat building to the west is limited to the morning over the entry path and front yard.</p>	<p>Yes</p>
<p>If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond the minimums outlined in 3F</p> <p>Overshadowing should be minimised to the south or downhill by increased upper setbacks</p>	<p>Minimal impact</p> <p>De Witt Street towards the south</p>	
<p>3D-1 Communal open space</p> <p>25% of the site area is to be communal open space (504.5sqm), and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.</p>	<p>459.5m² required and 522.64m² or 28.4% provided.</p> <p>Solar access complies</p>	<p>Yes</p>
<p>3F-1 Visual Privacy (Building separation)</p> <p>6m setback up to 4 storeys (3m to non-habitable rooms).</p>	<p><u>North</u> 6m to building wall presenting habitable rooms and balconies</p> <p><u>West</u> 6m minimum to building wall at closest point and balconies</p>	<p>Yes</p> <p>Yes</p>
<p>3J-1 Car Parking</p> <p>Minimum car parking requirement must be provided on site</p>	<p>32 spaces are provided, in accordance with the SEPP ARH</p>	<p>Yes</p>

<p>4A-1 Solar access</p> <p>70% of units should receive 2hrs solar access between 9am – 3pm midwinter.</p>	<p>23 of 32 (71.8%) units receive 2hrs direct solar access between 9am – 3pm midwinter.</p>	<p>Yes</p>
<p>4A-3 Solar access</p> <p>A maximum 15% of apartments receive no direct sunlight between 9am and 3pm mid winter</p>	<p>3 apartments (or 9.3%) receive no direct sunlight between 9am and 3pm midwinter.</p>	<p>Yes</p>
<p>4B-3 Natural cross-ventilation</p> <p>60% of units to be naturally cross-ventilated.</p>	<p>20 of 32 units (62.5%) are naturally cross-ventilated.</p>	<p>Yes</p>
<p>4C-1 Ceiling heights</p> <p>Min. 2.7m for habitable rooms. If variation is sought then satisfactory daylight access must be demonstrated.</p>	<p>Floor-to-ceiling heights are 2.7m to all floors.</p>	<p>Yes</p>
<p>4D-1 Unit size</p> <p>1 bed – min. 50m² 2 bed – min. 70m²</p> <p>Every habitable room must have a window in an external wall</p>	<p>1 bed, 1 bath – min. 50 m² 2-bed, 2 bath – min 75m²</p> <p>All habitable rooms have a window in an external wall</p>	<p>Yes Yes</p>
<p>4D-3 Apartment layouts</p> <ul style="list-style-type: none"> • Master Beds: 10m² min • Other beds: 9m² min • Bedrooms min dimension of 3m • Living Rooms at least 4m wide 	<p>Compliance achieved</p>	<p>Yes</p>
<p>4E-1 Private Open Space</p> <p>2 bed: Min. 10m², 2m depth 3 bed: Min 12m², 2.4m depth to primary balconies. Ground level units: Min 15m², 3m depth</p>	<p>All ground floor units and upper level balconies meet the required minimum areas and dimensions.</p>	<p>Yes</p>
<p>4F-1 Internal circulation</p> <p>1. Max. 8 units accessed from a single corridor.</p>	<p>8 units per floor</p>	<p>Yes</p>

4G-1 Storage 1 beds: 6m ³ , 2 beds: 8m ³ , 3 beds: 10m ³ (At least half to be provided within the unit)	Minimum storage volume provided with 50% provided within the units	Yes
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State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

BASIX Certificate No. 684579M, dated Monday 19th November 2015, accompanied the Development Application. The Certificate details the thermal, energy and water commitments which are also detailed on the submitted plans. The proposal satisfies the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and is supported in this instance.

Bankstown Local Environmental Plan 2015 (BLEP 2015)

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

- Clause 1.2 – Aims of Plan
- Clause 2.1 – Land use zones
- Clause 2.2 – Zoning of land to which Plan applies
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition requires development consent
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.9 – Preservation of trees or vegetation
- Clause 6.1 – Acid sulfate soils
- Clause 6.2 – Earthworks

An assessment of the Development Application has revealed that the proposal complies with the matters raised in each of the above clauses of Bankstown Local Environmental Plan 2015 except for height of buildings.

Clause 4.3 is the relevant control for determining the maximum permitted height for the site. Clause 4.3 states:

4.3 Height of buildings

(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,*

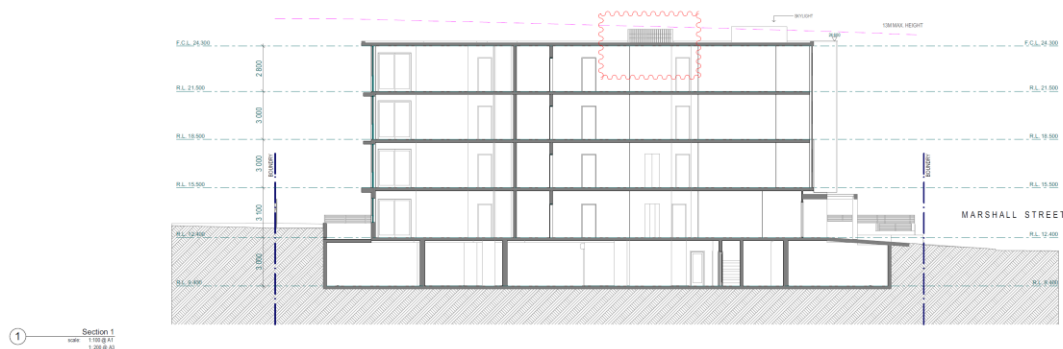
- (c) to provide appropriate height transitions between development, particularly at zone boundaries,
 - (d) to define focal points by way of nominating greater building heights in certain locations.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

The height indicated on the applicable map for the site is 13 metres.

Building height is defined as follows:

building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

In accordance with this definition, the building height will include all elements of the building, such as lift over runs and any other element that protrudes above the roof level of the building. Whilst the proposed building, including the lift overrun, is within the 13m height limit, part of the rooftop clerestory skylight roof exceeds the control by up to 250mm or 1.9% as illustrated in the section below.



The applicant has provided a written submission under Clause 4.6 of the BLEP 2015 requesting a variation to the height control. The applicant argues that despite the departure “ ... 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 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 floor space 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 complaint built form;*
- *The celestial skylights will not increase overlooking opportunities towards adjoining properties as compared to a complaint 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;*

Comments:

As illustrated in the above diagram the height breach is minor and would have no unacceptable impact on the amenity of the surrounding residents with regards to loss of view, privacy or overshadowing. The development remains consistent with the objectives of *height of buildings* and the objectives of high density residential zone.

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.

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)]

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

STANDARD	PROPOSED	BDCP 2005 PART B1 – RESIDENTIAL ZONES	
		REQUIRED	COMPLIANCE
Frontage	45.7m (Marshall Street) 40.2m (De Witt Street)	30m	Yes
Storey Limit	4 storeys	4 storeys	Yes
Setbacks			
Front setback			
- Marshall St	6m	6m	Yes
- De Witt St	6m	6m	Yes
Side/rear setback			
- North	Minimum: 6m Average: 10.4m	Minimum 4.5m Average = (0.6xwall height)	Yes
- West	Min: 6m Average: 9.75m	- North: 7.2m - West: 6.96m	Yes
• Setback to basement	North: 1m min. West: 3m-6.8m	2m 2m	No Yes
Adaptable Units	2 units	2 units	Yes
Location of private open space	Located within front building line	Behind front building line	No
Roof pitch	Flat roof	Maximum 35 ⁰	Yes
Front landscape area	Marshall Street: 45% De Witt Street: 52.3%	Minimum 45% of the area forward of the building line	Yes Yes

As the table demonstrates, the applicant is seeking a variation in respect to the setback for the basement and the location of private open space in accordance with the controls contained within Part B1 of the Bankstown Development Control Plan 2015.

Setback to basement

Clause 9.10, Part B1 of BDCP 2015 specifies that the minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres. The proposed basement seeks a minimum 3m setback to the western boundary and 1m to the northern boundary.

The variation to the basement setback to the northern boundary is considered acceptable in this instance for the following reasons:

- The basement along the northern boundary is located wholly below ground with no visual impact on the neighbours.
- A larger deep soil planting area has been provided along the De Witt Street frontage which can support canopy trees to soften the visual impact of the development.
- The development satisfies the landscaping and deep soil planting requirements under the SEPP.

Further the proposed basement design has been reviewed by Council's engineers and is supported. It is recommended that a dilapidation report be required to ensure that structures on neighbouring properties are not impacted by excavation works.

Location of private open space

Clause 9.12, Part B1 of BDCP 2015 specifies that the private open space must be located behind the front building line. The development proposes ground level courtyards for 5 units partially within the front building line. The applicant has presented the following arguments in support of the variation:

- *It is considered that the proposed variation will not have any adverse visual or amenity impact. Furthermore the variation is acceptable considering CPTED principles whereby the proposal will facilitate the activation of the frontage and permit additional casual surveillance to both Marshall Street and De Witt Street.*
- *The proposed variation will not impact or significantly reduce landscaping/screening within the front setback and will result in an appropriate outcome on site.*
- *The proposed variation will not lead to any adverse impact on the streetscape or on the visual presentation of the building as viewed from both Marshall and De Witt Streets.*
- *It is noted that the proposed private open space will be clearly distinguished between the public and private domain and also will clearly articulate the entrance to the proposal.*
- *Taking into account the above as well as the lack of adverse impact the variation is submitted to Council for favorable consideration.*

Comments: The Apartment Design Guide encourages activation of the street frontages through use of front gardens, terraces and the facade of the building. One of the design solutions included is providing private open space next to street. The proposed design utilises this design solution to achieve a satisfactory outcome.

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.

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

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

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

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

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

The proposed development is permitted with consent on the subject site, and represents a built form that is compatible with the existing and desired future character of the locality. The site is considered suitable for the proposed development.

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

The application was advertised and notified for a period of twenty one (21) days, from 13 January 2016 to 2 February 2016. A total of four (4) submissions were received, which raised concerns relating to traffic, parking, access for waste collection vehicles, removal of trees and concerns relating to safety, traffic and noise during construction. These issues are discussed in further detail below.

Traffic, access and parking impacts

- *Increased traffic to the area and congestion*
- *Does not agree with the conclusion in the traffic report that the projected increase in traffic activity will be minimal.*
- *There is currently construction of 60 unit apartment complex on Marshall Street, as well as a 4 storey apartment complex on 1-5 Marshall Street. Once completed these developments will be an additional strain on an already congested street during peak hours.*
- *The proposed development will exacerbate the on-street parking issues and cause further strain on street parking*
- *Motor vehicle accidents are common on the intersection due to numerous vehicles parked on the street causing blind spots for vehicles turning right onto De Witt Street from Marshall street.*
- *Intersection will be busier and more dangerous for drivers and school children.*
- *Being so close to the corner entering and leaving the buildings will be difficult with the increase of traffic.*
- *The proposed parking space is inadequate.*

Comments:

The proposed development is subject to the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, including those relating to car parking. According to the SEPP, a minimum parking rate of 0.5 space for each one bedroom unit and 1 space for each 2 bedroom unit applies, generating a need for 31 parking spaces. The proposed development provides a total of thirty two (32) parking spaces, including two (2) disabled car spaces and ten (10) bicycle spaces within the basement. As such, any potential impact on the availability of on-street car parking on Marshall Street and De Witt Street and within the locality is considered reasonable and consistent with that envisaged by the SEPP and does not warrant refusal of the development application.

The development application was accompanied by a Traffic Impact Assessment prepared by a qualified traffic engineer. This assessment examines the impacts of the proposed development on the local road network, the site's access to public transport, and the driveway and car park design. The assessment also provides traffic generation estimates, and finds that:

- *The proposed development will result in a nett increase in the traffic generation potential of the site of approximately 7 vehicles per hour.*
- *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 impact implications in terms of road network capacity.*
- *Traffic from the proposed development can be absorbed by the surrounding road network.*
- *The layout of the proposed car parking facilities have been designed to comply with the relevant requirements specified in the Standards Australian publication Parking Facilities Part 1 – Off-Street Car Parking AS2890.1 – 2004 in respect of parking bay dimensions, ramp gradients and aisle widths.*
- *The proposed development will not have any unacceptable parking implications.*

Given the scale of the development, it is not expected that there would be any significant additional impact on road/footpath condition and garbage collection, beyond what might currently be experienced. Vehicular access to the basement car park is provided from Marshall Street located at the northern end of the site which allows access to the basement to be clear of visual obstructions and is not considered likely to result in traffic safety issues. Further, the application has also been reviewed by Council's Roads and Infrastructure department, and is considered to be acceptable.

Concerns during construction

- *What are the construction plans/rules? Trucks, cranes etc. will be a nightmare in terms of safety, traffic and noise.*

Comments:

Potential construction impacts of the development (including noise, dust, traffic management, stormwater runoff and the removal and management of asbestos) are addressed by recommended conditions of consent including restriction on the hours of construction. The applicant will be required to submit a Traffic Management Plan to Council's Traffic Engineer detailing the traffic management measures during the construction.

Waste/garbage collection

- *Access to waste collection vehicles will be difficult.*
- *The residents on existing blocks have difficulties putting bins on garbage night due to lack of parking from the units within De Witt Street*

Comments:

The proposed bin storage area is located in the basement. A temporary bin storage area is proposed at ground level for the temporary storage of bins on the day of collection with access from Marshall Street. Council's Resource Recovery Officer has reviewed the application and raised no objection to the layout/design.

Privacy

- *Do not want privacy affected with the design of building windows looking directly into units*

Comments:

The proposed development incorporates balconies that face toward the neighbouring properties to the north and to the west. The greatest potential for privacy impacts is to the private open space areas of the dwellings to the north. Views to the west are primarily over the entry path and partly over communal open space for the adjoining apartment block. The balconies on the western and northern facades are provided with strategically placed privacy screens to minimise the potential for overlooking into neighbouring properties. No significant or unreasonable overlooking is expected as a result of these measures. Proposed ground floor terraces are at grade or below grade level along the northern and western boundaries.

Blocking of view

Comment

The building satisfies the controls for FSR, number of storeys and setbacks and is of acceptable bulk and scale. The minor breach of height by the clerestory skylights would have no perceptible impact on the views of the neighbours.

Loss of sun

Comment

The overshadowing from the development is limited to the morning period over the adjoining flat building to the west with shadows falling over the street

for the rest of the day. The level of solar access to neighbouring development is compliant.

Removal of trees

- *The removal of trees that a large group of birds call home, will be detrimental for the environment and residents*

Comment

It is proposed to remove all existing trees from the development site. All of these trees are exempt under *Part B11 – Tree Preservation Order* of *Bankstown Development Control Plan 2015*, and can be removed at any time. The development proposes the planting of 19 trees capable of growing to more than 5m in height. In addition, a condition has been imposed requiring replacement tree planting on the nature strip along both street frontages, 5 on Marshal Street and 1 on De Witt Street. The proposal has been examined by Council's Tree Management Officer and no objection has been raised to the removal.

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

The public interest is well served by the provision of well-designed affordable housing and the proposed development would not contravene the public interest. The proposed development responds appropriately to the requirements of the Apartment Design Guide as well as the relevant standards and controls contained in the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015. Matters raised in the public submissions have been satisfactorily addressed, and it is considered that there will be no unreasonable impacts on the locality.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979* and the relevant specific environmental planning instruments, including:

- *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;*
- *State Environmental Planning Policy No. 55 - Remediation of Land*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;*
- *Bankstown Local Environmental Plan 2015;*
- *Bankstown Development Control Plan 2015*

The proposed development represents an appropriate building form for the site and the relevant planning controls have been appropriately responded to. No significant or unresolved matters have been raised in the public submissions, and the proposal is not considered to have any unacceptable or unreasonable impacts on the surrounding locality.

RECOMMENDATION

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