

<b>ITEM</b>	<b>39 Chertsey Avenue, BANKSTOWN NSW 2200, 41 Chertsey Avenue, BANKSTOWN NSW 2200</b>
	<b>Demolition of existing structures, lot consolidation and construction of a four storey residential flat building comprising of thirty-eight (38) units and basement carparking.</b>
	<b>Development proposed under State Environmental Planning Policy (Affordable Rental Housing) 2009</b>
<b>FILE</b>	<b>DA-1013/2015 (JRPP Ref: 2016SYW059)</b>
<b>ZONING</b>	<b>R4 High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>28 August 2015</b>
<b>APPLICANT</b>	<b>Jph Urban</b>
<b>OWNERS</b>	<b>Maisan Group Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$8.7 Million</b>
<b>AUTHOR</b>	<b>Development Services</b>

### **SUMMARY REPORT**

This matter is reported to the Sydney West Joint Regional Planning Panel in accordance with the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*. The proposed development has an estimated value of \$8.7 million, 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-1013/2015 proposes the demolition of existing structures, lot consolidation and construction of a four (4) storey residential flat building comprising of thirty-eight (38) units and basement carparking.

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 (including the Apartment Design Guide), State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP), State Environmental Planning Policy No 55—Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment, Bankstown Local Environmental Plan 2015 (BLEP 2015), as well as Bankstown Development Control Plan 2015 (BDCP 2015).

The application has been assessed as generally compliant, with variations limited to building separation/setbacks and solar access. However the non-compliances are minor or technical in nature and are considered appropriate in the context of the development and will not result in any unreasonable impacts on the adjoining premises or the locality.

The application was advertised/notified for twenty-one (21) days, during which two (2) objections were received, which raised concerns relating to noise and anti-social behaviour, decrease property values, four storey is too high and traffic and parking.

### **POLICY IMPACT**

This matter has no direct policy implications.

### **FINANCIAL IMPACT**

The proposed matter being reported has no direct financial implications.

### **RECOMMENDATION**

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

## **DA-983/2014 ASSESSMENT REPORT**

### **SITE & LOCALITY DESCRIPTION**

The subject site is known as No. 39 and No. 41 Chertsey Avenue Bankstown. The site has a total area of 1900.8m<sup>2</sup> with a frontage of 40.23m along Chertsey Avenue and is zoned R4 – High Density Residential under Bankstown Local Environmental Plan 2015. The subject site is relatively flat with a slight fall (of approx. 300mm) across the front of the site from (east to west) and is located on the northern side of Chertsey Avenue between Oxford Avenue and Northam Avenue. The site currently contains two single storey dwellings and a number of associated outbuildings, including a large workshop at the rear of No. 41 Chertsey Avenue. Council's records state that the site/workshop “*was used as a ‘general haulage depot’ from or about 1939*”.

Development surrounding the site is largely characterised by older style single and two storey detached dwellings, while opposite the site are two (2) x three (3) storey residential flat buildings constructed approximately 20 years ago. The area is currently in transition to higher densities with the subject site zoned R4 – High Density Residential - which continues to the north, east and south and R3 – Medium Density is located immediately to the west of the site.

The site locality is illustrated in the aerial photo and zoning map below.





## **PROPOSED DEVELOPMENT**

The Development Application proposes the demolition of existing structures and construction of a four (4) storey, residential flat building containing thirty-eight (38) residential units (including 8 x 1 bed, 28 x 2 bed and 2 x 3 bed units, with a basement level containing thirty-five (35) carparking spaces), lodged under State Environmental Planning Policy (Affordable Rental Housing) 2009. Twenty-one (21) of the proposed units will be allocated as Affordable Rental Housing dwellings, which equates to 51% of the total gross floor area of the development.

Vehicular access to the basement car park is provided from Chertsey Avenue with the driveway located towards to the eastern end of the site.

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



## Streetscape elevation

## **Matters raised during JRPP briefing**

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

- *The common open space area at the back of the site could be incorporated into the private open space areas of the rear units.*

Units G07, G08 and G09 now have larger courtyards of almost 40m<sup>2</sup>.

- *A landscape strip could be provided at the rear of the site along the open stormwater channel.*

A 1.5m wide landscape strip has been provided along the rear of the site to accommodate screen planting along the stormwater channel. A condition of consent will ensure compliance with Clause 9.25 of Bankstown Development Control Plan 2015. The condition will ensure that the landscape area is serviced with a commercial grade, sub-surface, automatic, self-timed irrigation system and the provision of a 2m high chain-wire fence (with an appropriate access point for maintenance).

- *The ground floor courtyard of unit G04 could be expanded by reconfiguring the area associated with the fire stairs, diesel pump room etc.*

The area has been redesigned to allow for a large courtyard to unit G04 which is approximately 50m<sup>2</sup>.

- *Clerestory windows to be provided to several of the top floor units.*

Clerestory windows have been provided to five of the top floor units.

## **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**

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) aims to 'facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards'. Division 1 (Clauses 10 to 17 inclusive) of the ARHSEPP applies to development for the purposes of '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 an 'accessible area' as it is within 50m of a bus stop (corner of Oxford Street & Chertsey Avenue) that provides the required services of the ARHSEPP. Accordingly Division 1 of the ARHSEPP applies. An assessment of the proposal against the applicable Clauses of Division 1 of the ARHSEPP is provided 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 planning instrument, and	The proposal is defined as 'Residential Flat Building' which is permitted with Council consent under the BLEP 2015 in the R4 – High Density Residential	Yes
	(1)(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the <u>Heritage Act 1977</u> .	The site does not contain a heritage item nor is it in the vicinity of a heritage item	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 50m walking distance of a bus stop which satisfies 'accessibility' requirements under the AHRSEPP.	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 distance of land within Zone B2 Local Centre or Zone B4 Mixed	N/A – land is located within Sydney region	N/A

	Use, or within a land use zone that is equivalent to any of those zones.		
<b>11, 12 (Repealed)</b>	-	-	-
<b>13 Floor space ratios</b>	(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.	21 units or 51% of the gross floor area of the development is to be used for the purpose of affordable housing.  The units that are to be used as affordable units are as follows: <u>Ground floor</u> : G01, G02, G03, G04, G05, G06 & G08. <u>Level 1</u> : 102, 103, 105, 106 & 107, 110. <u>Level 2</u> : 202, 203, 205, 206 & 208. <u>Level 3</u> : 302, 303 & 308.	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 occur, plus: (a) if the existing maximum floor space ratio is 2.5:1 or less:  (i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or	The permitted floor space under BLEP 2015 is 1:1 plus the additional 0.5:1 applies to this development as there is over 50% of the gross floor area dedicated for use as affordable housing.  Site area: 1900.8m <sup>2</sup> Proposed floor space: 2858.45m <sup>2</sup> Proposed FSR: 1.5:1 Percentage of gross floor area dedicated as affordable: 51%	Yes
<b>14 Standards that cannot be used to refuse consent</b>	<b>(a) Repealed</b>	-	-
<b>Site and solar access requirements</b>	<b>(b) Site Area</b> Minimum 450sqm	1900.8m <sup>2</sup>	Yes
	<b>(c) Landscaped Area</b> at least 30 per cent of the site area is to be landscaped	Site area: 1900.8m <sup>2</sup> Landscape area: 576.73m <sup>2</sup> Landscape percentage: 30%	Yes
	<b>(d) Deep Soil Zone</b> 15% of total site area	15%	Yes
	<b>(e) Solar Access</b> Min 70% of dwellings to receive min 3hrs solar access between 9am and 3pm in mid-	47% of the units receive 3 hours solar access between 9am and 3pm during mid-winter. Although the development does not meet the requirements of the ARHSEPP in	No. Development complies with ADG by providing 2

	winter	terms of solar access, it complies with the Apartment Design Guide by providing a minimum of 2 hours solar access to 71% of proposed units.	hours solar access to 71% of proposed units. As the proposal meets the ADG, solar access is considered acceptable.
<b>14(2) General</b>	<b>(a) parking</b> at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,	<ul style="list-style-type: none"> <li>• 1 bed x 8 (0.5 spaces per unit) = 4 spaces</li> <li>• 2 bed x 28 (1 space per unit) = 28 spaces</li> <li>• 3 bed x 2 (1.5 spaces per unit) = 3 spaces</li> </ul> <p>Total spaces required = 35</p> <p>Total spaces provided = 35</p>	Yes
	<b>(b) dwelling size</b> <ul style="list-style-type: none"> <li>• 50 square metres in the case of a dwelling having 1 bedroom, or</li> <li>• 70 square metres in the case of a dwelling having 2 bedrooms, or</li> <li>• 95 square metres in the case of a dwelling having 3 or more bedrooms.</li> </ul>	All units meet the minimum requirements.	Yes
<b>15 Design Requirements</b>	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 Flat Development applies.	N/A
<b>16A Character of Area</b>	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 are permitted.</p> <p>The site is located in an area which is under transition. A number of detached dwellings exist within catchment area, however the emerging development type is high density residential, with examples of existing residential flat developments directly opposite the site to the south. The sites adjoining are also zoned high density to the north, south and east, and medium density to the west.</p>	Yes

		The proposed building is considered to be sensitive to the existing character of the locality and reflective of the desired future character given that the surrounding area is zoned for increased densities in line with Council's vision for the provision of additional housing in close proximity to train stations.	
<b>17 Must be used as affordable housing for 10 years</b>	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
<b>18 Subdivision</b>	Land on which development has been carried out may be subdivided with consent of the consent authority	Subdivision is not sought as part of this Development Application.	N/A

As demonstrated above, the proposal complies with all of the standards contained within Division 1 (Clauses 10 to 17 inclusive) State Environmental Planning Policy (Affordable Rental Housing) 2009, with the exception of a minor variation to solar access. The development complies with the solar access requirements of the ADG by providing 2 hours solar access to 71% of proposed units and less than 15% of all units receive no solar access. As the proposal meets the ADG, solar access is considered acceptable.

### **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 policy, and do not propose any of the specific development types listed under the '*planning control table*'.

### **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.*

In the case where land may be contaminated, Council must be satisfied that the land is suitable for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

Council records revealed that the subject site “*was used as a ‘general haulage depot’ from or about 1939*”. A Stage 2 - Detailed Site Investigation Report (prepared by Benviron group, dated May 2016) was submitted to and assessed by Council which concludes that “*... the site therefore is suitable for the proposed development, subject to the following recommendations:*

- *Any soils proposed for removal from the site should initially be classified in accordance with the “Waste Classification Guidelines, part 1: Classifying Waste” NSW DEC (2014).*
- *If during any potential site works, significant odours and / or evidence of gross contamination (including asbestos) not previously detected are encountered, or any other significant unexpected occurrence, site works should cease in that area, at least temporarily, and the environmental consultant should be notified immediately to set up a response to this unexpected occurrence.*

The site is considered to suitable for the proposed used and that the application is satisfactory in regards to the objectives and requirements of State Environmental Planning Policy No 55—Remediation of Land.

### **State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65)**

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 proposed development is consistent with the Design Quality Principles and responds appropriately to the site’s context. Moreover, the application generally conforms to the key ‘Design Criteria’ contained in the Apartment Design Guide, as outlined in the table below.

<b>‘DESIGN CRITERIA’</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>3D-1 Communal open space</b> 25% of the site area is to be	25% of the site is defined as	Yes

<p>communal open space, and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.</p>	<p>communal open space. Solar access is achieved to at least 50% of the communal open space area.</p>	
<p><b>3E-1 Deep Soil Zones</b> Sites greater than 1500m<sup>2</sup> must provide 7% of the site as DSZ, 6m wide.</p>	<p>15% of the site has been dedicated as deep soil zone in accordance with ARHSEPP.</p>	<p>Yes</p>
<p><b>3F-1 Visual Privacy (Building separation)</b></p> <p><b>Up to 12m (4 storey)</b> Habitable: 6m setback Non-habitable rooms: 3m setback</p> <p><b>Up to 25m (5-8 storeys)</b> Habitable: 9m setback Non-habitable rooms: 4.5m setback</p>	<p>The proposed building has a maximum height of 4 storeys, however the side and rear elevations range in height from 12.6m-13m (excluding architectural roof features).</p> <p>Side elevations = 3m to non-habitable room and 6m to habitable rooms.</p> <p>Rear elevation = 4.5m to habitable rooms (no non-habitable rooms).</p>	<p>No. Refer to comment below.</p>
<p><b>3J-1 Car Parking</b> Minimum car parking requirements must be provided on site.</p>	<p>35 spaces are provided in accordance with the ARHSEPP.</p>	<p>Yes</p>
<p><b>4A-1 Solar access</b> 70% of units should receive 2hrs solar access between 9am – 3pm midwinter.</p> <p><b>4A-3 Solar access</b> Max 15% of units receive no direct sunlight between 9am and 3pm at mid-winter.</p> <p><b>Design Guidance 3B-2 Overshadowing of neighbouring properties</b></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</p>	<p>28 units receive at least 2 hours solar access between 9am – 3pm midwinter, which equates to 71% of all units.</p> <p>5 Units receive no solar access between 9am – 3pm midwinter, which equates to 13% of all units.</p> <p>Adjoining properties will maintain adequate solar access. The majority of the shadows fall onto the street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

hours of solar access, the proposed building ensures that solar access to neighbouring properties is not reduced by more than 20%		
<b>4B-3 Natural cross-ventilation</b> 60% of units to be naturally cross-ventilated.	61% of the units are naturally crossed ventilated.	Yes
<b>4C-1 Ceiling heights</b> Min. 2.7m for habitable rooms. If variation is sought then satisfactory daylight access must be demonstrated.	2.7m	Yes
<b>4D-1 Unit size</b> 1 bed – min. 50m <sup>2</sup> 2 bed – min. 70m <sup>2</sup> 3 bed – min. 90m <sup>2</sup>  Every habitable room must have a window in an external wall.	All units meet the minimum requirements.  All habitable rooms have a window in an external wall.	Yes
<b>4D-3 Apartment layouts</b> <ul style="list-style-type: none"><li>• Master Beds: 10m<sup>2</sup> min</li><li>• Other beds: 9m<sup>2</sup> min</li><li>• Bedrooms min dimension of 3m</li><li>• Living Rooms at least 4m wide</li></ul>	The development achieves the minimum dimensions.	Yes
<b>4D-2 Room Depth</b> <ul style="list-style-type: none"><li>• Habitable room depth are limited to a maximum of 2.5 x ceiling height</li><li>• In open plan layouts (where living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</li></ul>	The proposed development meets the minimum requirements for room depth.	Yes
<b>4E-1 Private Open Space</b> 2 bed: Min. 10m <sup>2</sup> , 2m depth 3 bed: Min 12m <sup>2</sup> , 2.4m depth to primary balconies. Ground level units: Min 15m <sup>2</sup> , 3m depth.	All units meet the minimum requirements for private open spaces.	Yes
<b>4F-1 Internal circulation</b> Max. 8 units accessed from a single corridor.	The development does not proposed to have more than 8 units accessed from a single corridor.	Yes

<b>4G-1 Storage</b> 2 beds: 8m <sup>3</sup> , 3 beds: 10m <sup>3</sup> (At least half to be provided within the unit)	The minimum storage areas have been provided for each unit.	Yes
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### ***Building Separation***

The Apartment Design Guide suggested dimensions for building separation are shown in the table above.

#### *Side elevations*

The side elevations are compliant with the 4 storey/12m height requirement of the ADG, as the proposal provides a 6m setback to habitable rooms and 3m setback to non-habitable rooms. However, as the height on the side elevations is slightly above the 4 storey/12m height control (as the height ranges from 12.6m-13m) there is a small portion of the elevations which should technically comply with the setbacks required for a building with a height of 'up to 25m or 5-8 storeys'. The non-complying component of the side elevation is only the upper 600mm-1m portion of the building. As the portion of the building is so minor and there are no adverse impacts on the adjoining properties particularly in terms of solar access and privacy, the variation is considered acceptable in this case.

#### *Rear elevation*

Similarly to the side elevations, the rear elevation is only slightly higher than 12m, being 12.6m (excluding architectural roof features). For the portion of the building up to 12m, a setback of 6m is required to habitable rooms. The setback proposed to the habitable rooms on the rear elevation is 4.5m, being 1.5m short of the 6m requirement.

The shortfall of 1.5m to the rear setback is compensated by the provision of a 3m wide open stormwater channel at the rear of this property, which runs between the subject property and the neighbouring property to the north. If the 3m width of the stormwater channel was incorporated as building separation being equally split between this property and the adjoining northern property, half the width (1.5m) could be added to the proposed 4.5m setback on this property which would have the same result as providing a 6m setback within the site. This would bring the total overall building separation between the proposed building and any potential future development on the property to the north to 12m, which would meet the objectives of the Apartment Design Guide.

Similar to the side elevation, the rear elevation has a height of 12.6m, which above 12m should technically comply with the setbacks required for a building with a height of 'up to 25m or 5-8 storeys'. The non-complying component of the rear elevation is only the upper 600mm portion of the building. As the portion of the building is so minor and that there are no adverse impacts on the adjoining properties particularly in terms of solar access and privacy, the proposed rear setback of 4.5m (6m including half the width of the storm water channel) is considered acceptable in this case.

The proposed building setbacks and the resultant building separation is considered to meet the relevant objectives of the Apartment Design Guide. The proposed development results in an appropriate built form for the site which is consistent with the desired future character illustrated in Council's DCP and LEP and consistent with the ARHSEPP to increase densities in accessible areas with good connections to public transport.

The proposed setbacks would not compromise the ability of neighbouring sites to meet the requirements of the Apartment Design Guide and achieve the yield and density permitted under the BDCP 2015 and BLEP 2015.

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

SEPP (State and Regional Development) states that a regional panel may exercise the consent authority functions of the council for the determination of applications for development of a class or description included in Schedule 4A of the EP&A Act. Schedule 4A(6)(b) of the Act includes '*Private infrastructure and community facilities over \$5 million*' (which includes Affordable Housing). As the proposed development has a value of \$8.7 million, the application is reported to the Sydney West JRPP for determination.

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

BASIX Certificate No. 659946M, dated Monday 24<sup>th</sup> August 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 5.6 – Architectural roof features
- Clause 5.9 – Preservation of trees or vegetation
- 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.

## 5.6 Architectural roof features

Although the building complies with the maximum building height of 13m specified under Clause 4.3 of BLEP 2015, the development proposes architectural roof features that protrude beyond the 13m height limit. The architectural roof features are considered acceptable and comply with the requirements of Clause 5.6 of BLEP 2015, provided below:

### 5.6 Architectural roof features

- (1) *The objectives of this clause are as follows:*
  - (a) *to enable minor roof features to exceed the maximum height for a building,*
  - (b) *to provide opportunities for architectural roof features that form an integral part of the building's design.*
- (2) *Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*
- (3) *Development consent must not be granted to any such development unless the consent authority is satisfied that:*
  - (a) *the architectural roof feature:*
    - (i) *comprises a decorative element on the uppermost portion of a building, and*
    - (ii) *is not an advertising structure, and*
    - (iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
    - (iv) *will cause minimal overshadowing, and*
  - (b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

## Clause 5.9 – Preservation of trees or vegetation

The development proposes the removal of the following trees:

- one (1) street tree *Lophostemon confertus* (Brush box) to accommodate the new driveway. Replacement trees will be planted to compensate for the street tree removal, being two (2) x *Cupaniopsis anacardioides* (Tuckeroo).
- two (2) trees located in the rear yard of No. 39 including a *Callistemon viminalis* (Weeping Bottlebrush) and a *Syzygium paniculatum* (Magenta lilly). Both trees are located within the building footprint and will be replaced by new native species in a more suitable location on the site.
- one (1) *Callistemon viminalis* (Weeping Bottlebrush) located in the front yard of No. 41 which is not considered worthy for retention.

Overall the proposed landscaping on the site will be superior to the existing vegetation provided on the site.

***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 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.

DCP CONTROL	PROPOSED	COMPLIANCE
<b>Storey limit</b> 4 Storey/13m	4 Storey/13m + additional architectural roof feature (permitted under Clause 5.6 of BLEP 2015)	Yes
<b>Frontage</b> 30m	40.23m	Yes
<b>Setbacks</b>		
<b>Front</b> 6m	6m	Yes
<b>Side</b> Minimum 4.5m (average 0.6m x wall height)		
<u>East:</u> 13m x 0.6m = 7.8m	<u>East:</u> Minimum 6m Maximum 11m	No. While the minimum setbacks are less than the 4.5m and averages specified in the BDCP, the portion of the building setback at 3m is limited to a length of 11.5m. This portion of the building is considered as a non-habitable wall under the ADG (as there are only bathrooms windows on the elevation) which would require a minimum setback of 3m under the ADG.
<u>West:</u> 12.6m x 0.6m = 7.8m	<u>West:</u> Minimum 3m Maximum 6m	
<u>North:</u> 12.6m x 0.6m =7.56m	<u>North:</u> Minimum 4.5m Maximum 4.5m	The remainder of the development provides a minimum setback of at least 4.5m or 6m. The 4.5m setback is limited to the rear boundary which is offset by the additional width of the 3m wide stormwater channel (this matter is discussed in the ADG assessment section

		of this report).
<b>Basement</b> 2m	2m	As there are no impacts on the adjoining properties, particularly in terms of solar access and privacy, this non-compliance to the BDCP 2015 is considered acceptable in this case.
<b>Adaptable units</b> 1	2	Yes
<b>Driveway setback</b> Minimum setback of 1m.	3.55m	Yes
<b>Location of private open space</b> Behind the front building line.	Located behind the front building line.	Yes
<b>Roof pitch</b> Max 35°	Flat roof	Yes
<b>Waste storage</b> Can locate forward of the front building line provided it is setback a minimum of 1.5m from primary and secondary frontage and area planted with native vegetation.	A temporary bin storage area is located 1.5m from the front property boundary and is proposed to be heavily planted with native vegetation.	Yes
<b>Front landscape area</b> Minimum 45% landscape area forward of the front building line	46%	Yes
<b>Security</b> Where allotment shares a boundary with open stormwater drain fence should be setback 1.5m. The area is to be treated with landscaping.	Fence setback 1.5m, landscaping provided within setback. Conditions of consent to ensure long term maintenance of the landscape area.	Yes

As the table demonstrates, the applicant is seeking a variation in respect to the side and rear setback controls contained within Part B1 of the Bankstown Development Control Plan 2015. An assessment of the proposed setbacks in relation to the provisions of the Apartment Design Guide has been previously discussed in this report, which concludes that the proposed setbacks are considered satisfactory in this case.

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

There are no planning agreements relevant to this development application.

## **The provisions of the Regulations - section 79C(1)(a)(iv)**

The proposed development is consistent 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 located within the coastal zone as defined in the *Coastal Protection Act, 1979* therefore the provision of Section 79(1)(a)(v) do not apply.

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

Based on the assessment provided in this report, subject to the conditions of consent, the proposed development is not assessed as having an unreasonable impact upon the surrounding natural, social, economic and built environments.

## **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/notified for twenty-one (21) days, during which two (2) objections were received, which raised concerns relating to noise and anti-social behaviour, decrease property values, height and traffic/parking.

- ***Anti-social behaviour***

There is no evidence to suggest that the proposed development would result in any direct increase in crime or anti-social issues in the locality.

- ***Noise***

An acoustic assessment has been carried out, which has concluded that the development is satisfactory. It is likely there will be some increase in noise on site as a result of the additional dwellings, however the increase would be marginal and should not unreasonably impact on the adjoining properties or locality.

- ***Decrease property values***

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

- ***Four storey is too high***

The site is zoned R4 – High Density, having a maximum permitted height of 13m (4 Storey) under Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. The proposed development meets the maximum height requirement as specified by Council's policies and is consistent with the Council's long term desired character of the area - aiming to promote high density development on sites that are located within close proximity of train stations.

- ***Traffic and parking***

It is considered that Chertsey Avenue and the surrounding street network has sufficient capacity to accommodate any potential additional traffic that is generated by the proposed development. The development provides an adequate number of carparking spaces to meet the demands of the future occupants which is specified under State Environmental Planning Policy (Affordable Rental Housing) 2009.

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the site-specific development controls contained in the *Bankstown Development Control Plan 2015* and the *Bankstown Local Environmental Plan 2015*, and the requirements of the *SEPP 65 Residential Flat Design Code* and *Affordable Rental Housing SEPP*. Matters raised in public submissions have been satisfactorily addressed, and it is not considered that there would be any 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 (Affordable Rental Housing) 2009, State Environmental Planning Policy No 55—Remediation of Land, 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 proposed development results in an appropriate built form for the site which is consistent with the longer term future desired future character illustrated in Council's Development Control Plan and Local Environmental Plan. The proposal is considered to be compatible with the longer term intended character of the area while being considerate to the existing development during the short term.

Relevant planning controls have been appropriately responded to and no significant or unresolved matters have been raised in public submissions. Approval of this application would facilitate the provision of affordable housing on site within close

proximity of Bankstown Train Station and an 'accessible area' without having any unacceptable or unreasonable impacts on the surrounding locality.

**RECOMMENDATION**

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