

ITEM	116-124 Restwell Street, Bankstown Demolition of Existing Structures and Construction of a Six (6) Storey Residential Development Comprising Eighty-Seven (87) Units Above Two (2) Levels of Basement Carparking under State Environmental Planning Policy (Affordable Rental Housing) 2009
FILE	DA-333/2016 (JRPP Ref: 2016SYW097)
ZONING	R4 – High Density Residential
DATE OF LODGEMENT	14 April 2016
APPLICANT	Design Cubicle Pty Ltd
OWNERS	Ostar Development Pty Ltd and Da Shi Hong and Pingting Hong
ESTIMATED VALUE	\$21,079,303
SITE AREA	3193.6m²
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 \$19,163,002 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-333/2016 proposes the demolition of existing structures and construction of a six (6) storey residential development comprising eighty-seven (87) units above two (2) levels of basement carparking. The application is lodged pursuant to the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, with 48.2% 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 4 May 2016 to 24 May 2016. No submissions were received during the notification period.

POLICY IMPACT

This matter has no direct policy implications as the proposal generally complies with BLEP 2015 and BDCP 2015, with variations limited to a minor encroachment to building height, 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-333/2016 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 116-124 Restwell Street, Bankstown and is located at the north-eastern corner of Restwell Street and Macauley Avenue. The site is currently zoned R4 – High Density Residential. The consolidated development site has an area of 3,193.6m² and street frontages of 63.75m (including the splay) to Restwell Street and 50.29m (including the splay) to Macauley Avenue.

The site contains four single-storey dwellings and a two-storey dwelling with outbuildings in the rear yards. The site has a gentle slope from north to the south of approximately 1m. The site contains no significant vegetation.

Surrounding developments consist of a detached single storey dwelling to the north. To the east is a 3-storey residential flat building built over a car park and one and two storey detached dwellings. To the west on the opposite side on Restwell Street and to the south on the opposite side on Macauley Avenue are one and two storey detached dwellings.

The site locality is illustrated in the aerial photo below.



PROPOSED DEVELOPMENT

Development Application No. DA-333/2016 proposes the demolition of existing structures and construction of a six (6) storey residential development comprising eighty-seven (87) units above two (2) levels of basement carparking, lodged under *State Environmental Planning Policy (Affordable Rental Housing) 2009*, and will involve the following works:

- Demolition of existing structures and removal of trees.
- Two (2) levels of basement parking for a total of one hundred and twenty seven (127) parking spaces for residents and visitors, including seventeen (17) visitor spaces and four (4) disabled car spaces and twenty nine (29) bicycle spaces.
- Construction of a six (6) level building containing eighty seven (87) units, comprising of one (1) x studio unit, eighteen (18) x one (1) bedroom units, sixty seven (67) x two (2) bedroom units and one (1) x 3 bedroom unit.

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

A total of forty two (42) of the proposed units will be allocated as Affordable Rental Housing Units, which equates to 48.2% of units and 46.9% of the total gross floor area of the development. The applicant has provided a letter from Evolve Housing that they agree “... to manage 116-124 Restwell Street, Bankstown for 10 years in accordance with the SEPP ARH 2009”. 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.

Perspective views of the proposed development are provided below.





Matters raised during JRPP briefing

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

- *Need to provide the required setback on both street frontages towards the east and north in order to guide future developments on the street.*

The setback to the street on Restwell Street was increased from 4.5m to 6m towards the northern end to match the setback required by Council's DCP.

- *Design driveway to address flooding*

The applicant's hydraulic engineer is proposing to address possible flooding of the basement " ... with the provision of a self-closing automatic gate installed at the entry point of the basement carpark. It is proposed to use a system that has a failsafe operational mode such that during a large/extreme flood event, the flood gate would have a backup power source to trigger its opening. The system would be similar to Flooding Solutions "PULL UP Self Closing and Automatic Barriers" flood control gate".

Council's Development Engineer has assessed the system and recommended support.

- *Location/design of garbage area to satisfy Council's requirements*

The garbage area has been redesigned and relocated from Macauley Avenue to Restwell Street to the satisfaction of Council's Resource Recovery Team.

- *Removing the ramp in front of Unit 1 to provide greater opportunity for landscape and minimize visual impact.*

The applicant revised the layout to provide alternate access to the units fronting Macauley Avenue from the central courtyard which allowed the ramp on Macauley Avenue to be deleted and the area landscaped.

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:

- 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- 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 approximately 735m from Bankstown railway station. Further there is a bus stop in front of the site in Restwell Street 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 planning instrument, and	The proposal is identified 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 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 800m of walking distance to Bankstown railway station 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 at least 20 per cent.	<p>46.9% of the gross floor area is to be used for the purpose of affordable housing.</p> <p>The units that have been identified to be used as affordable units are six units at ground level (Units 1, 4, 21, 24, 68 & 70), eight units at each of the 1st to 3rd floor levels (Units 5 to 8, 10 to 14, 25 to 27, 29 to 31, 33 to 35, 72, 73, 75, 77, 79 & 80) and six units at each of the 4th & 5th floor levels (Units 16, 19, 37 to 39, 41 to 43, 63, 67, 83 & 86). The allocation of the units is depicted in Drawing No. DA:705.</p>	Yes
		<p>Permitted floor space is 1.75:1, plus Y</p> <p>Where $Y = AH / 100$</p> <p>AH = 46.9% or 0.469:1</p> <p>Total permissible = 2.219:1</p>	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:	Total proposed = 2.219:1	
	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	3,193.6m ²	Yes
	(b) Landscaped Area at least 30 per cent of the site area is to be landscaped	34.66% is to be landscaped	Yes
	(c) Deep Soil Zone 15% of total site area	17.8% 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	71.26% (62 of 87) 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,	studio x 1 (0.5 spaces each unit) = 0.5 spaces 1 bed x 18 (0.5 spaces each unit) = 9 spaces 2 bed x 67 (1 space each unit) = 67 spaces 3 bed x 1 (1.5 space each unit) = 1.5 spaces Total spaces required = 78 Total spaces provided = 127	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 in the case of a dwelling having 3 or more bedrooms. 	All units meet the minimum requirements	Yes
15 -Design Requirements	Consideration of Seniors Living Policy: Urban Design Guidelines for Infill Development	The Seniors Living Policy is not applicable as <u>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</u> 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 six 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 east and more recent approvals further north on Restwell Street and on Leonard Street and Percy Street.</p> <p>The proposed building is considered to be 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 this 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. A Stage 1 Contamination Report, prepared by Ground Technologies was submitted with the application. The report concluded that *“The site is suitable for development for “residential” use. No remediation action plan is required”*.

Based on the findings of the report, 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 (ADG) 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 2.219:1 which complies with the maximum permitted 2.219:1 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 unit sizes consisting of one, two and three bedroom units, including forty two affordable units, providing a range of choice and housing affordability.

5. Landscape

The development provides approximately 1107m² 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 dwellings address both the Restwell Street and Macauley Avenue with access from the streets. 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 48.2% 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 east is limited to the afternoon period and meets the solar access requirements in the ADG.</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>Macauley Avenue towards the south</p>	<p>Yes</p>
<p>3D-1 Communal open space</p> <p>25% of the site area is to be communal open space, and 50% of the COS must receive at least 2 hours direct sunlight between 9am-3pm on 21 June.</p>	<p>798.4m² required and 799.3m² or 25% 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>9m setback 5 to 9 storeys</p>	<p><u>North and East</u></p> <p>6m to building wall presenting habitable rooms and balconies up to 4 storeys</p> <p>9m setback for 5th and 6th storey</p>	<p>Yes</p> <p>Yes</p>

3J-1 Car Parking		
Minimum car parking requirement must be provided on site	127 spaces are provided, in accordance with Council's Parking Code	Yes
4A-1 Solar access		
70% of units should receive 2hrs solar access between 9am – 3pm midwinter.	62 of 87 (71.2%) units receive 2hrs direct solar access between 9am – 3pm midwinter.	Yes
4A-3 Solar access		
A maximum 15% of apartments receive no direct sunlight between 9am and 3pm mid winter	6 of 87 apartments (or 6.8%) receive no direct sunlight between 9am and 3pm midwinter.	Yes
4B-3 Natural cross-ventilation		
60% of units to be naturally cross-ventilated.	57 of 87 units (65.5%) are naturally cross-ventilated.	Yes
4C-1 Ceiling heights		
Min. 2.7m for habitable rooms. If variation is sought then satisfactory daylight access must be demonstrated.	Floor-to-ceiling heights are 2.7m to all floors.	Yes
4D-1 Unit size		
1 bed – min. 50m ² 2 bed – min. 70m ²	1 bed, 1 bath – min. 50 m ² 2-bed, 2 bath – min 75m ²	Yes
Every habitable room must have a window in an external wall	All habitable rooms have a window in an external wall	Yes
4D-3 Apartment layouts		No
<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><i>Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality</i></p>	Compliance achieved except for the living area of six units (Units 23, 27, 30, 35, 39 & 43)	However, the applicant, through furniture layout and circulation spaces, has demonstrated the usability and functionality of the spaces.

<i>of the space with realistically scaled furniture layouts and circulation areas.</i>		
4E-1 Private Open Space 2 bed: Min. 10m ² , 2m depth 3 bed: Min 12m ² , 2.4m depth to primary balconies. Ground level units: Min 15m ² , 3m depth	All ground floor units and upper level balconies meet the required minimum areas and dimensions.	Yes
4F-1 Internal circulation Max. 8 units accessed from a single corridor.	4 units per floor	Yes
4G-1 Storage 1 beds: 6m ³ , 2 beds: 8m ³ , 3 beds: 10m ³ (At least half to be provided within the unit)	Storage area in excess of the recommended volume is provided for all units however, not all units have 50% of the storage space located within the units.	No Variation to the location of storage volume considered acceptable given that larger storage volume provided in the basement would have added benefit to the residents.

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

BASIX Certificate No. 705781M, dated Monday 31st March 2016, 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
Clause 6.3 – Flood planning

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 floor space ratio and height of buildings.

Floor space ratio

The BLEP specifies an FSR of 1.75:1 for this site. The development proposes an FSR of 2.129:1. As discussed in an earlier section of this report, the development benefits from additional FSR for providing affordable rental units under the provisions of SEPP ARH, which prevails over the BLEP in this instance.

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 19 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, is generally within the 19m height limit, part of the lift overrun and rooftop clerestory skylight windows exceed the control by up to 500mm or 2.6% 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 remains consistent with the objectives based on the following:*”

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 2015 PART B1 – RESIDENTIAL ZONES	
		REQUIRED	COMPLIANCE
Frontage	63.75m (Restwell Street) 50.29m (Macauley Ave)	30m	Yes
Storey Limit	6 storeys	6 storeys	Yes
Setbacks Front setback - Restwell St - Macauley Ave Side/rear	3.5m to 6m 3.5m to 6m Up to 4 levels - 6m min. 5 & 6 level – 9m mn.	6m 6m Minimum 4.5m Average = (0.6xwall height)	No No Yes ADG prevails over the BDCP on side/rear setback controls
• Setback to basement • Setback to driveway	North: 4.1m min. East: 3.6m min. 1m	2m 2m 1m	Yes Yes
Adaptable Units	3 units (Units 74, 78 & 81)	3 units	Yes
Location of private open space	Located within front building line	Behind front building line	No
Roof pitch	Flat roof	Maximum 35°	Yes
Front landscape area	Restwell St: 73% Macauley Ave: 49%	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 front setback and the location of private open space in accordance with the controls contained within Part B1 of the Bankstown Development Control Plan 2015.

Front Setback

Clauses 9.5 and 9.6 of Part B1 state that the setback for a building wall to the primary and secondary frontage is 6m. The development proposes setbacks varying from 3.5m to 6m along both frontages as depicted below:



1st – 3rd Floor Plan

The layout is staggered towards the side boundaries with the front setback increasing from 3.5m near the corner to 6m towards the neighbouring properties. The applicant has presented the following arguments in support of the variation:

- *The development incorporates an average setback to the primary frontage of Restwell Street of 4.5m. As can be seen on the architectural plans the setback varies between 6m, 4.5m and at its minimum 3.5m.*
- *The front setback has been carefully articulated to add visual interest to the streetscape creating a design that can complement the existing and changing residential character of this area.*
- *The setback directly adjoining the northern boundary is provided at 6m which steps the building to allow natural light to flow through to the adjoining land while at the same time creating a usable and attractive building on this site. Stepping back the building ensures that solar access for the adjoining land is maintained.*

- *The main building setback is reduced to 3.5m directly adjoining units 23 and 24. This is mid-way through the land parcel which ensures there is no detrimental impact on adjoining sites.*
- *The setback at the corner of Restwell and Macauley Streets is setback approximately 4.5m. As this is a corner site it is important for the building design to address the street corner while at the same time ensuring that sight lines and safety is maintained.*
- *The building design delivers a strong built form presence on this corner allotment while ensuring that sight lines and safety is maintained.*

Comments:

The proposed setback is considered appropriate for this corner development as it provides a stronger building element at the corner with the building stepping back to the recommended setback to act as a guide to future developments along both Restwell Street and Macauley Avenue. The reduced setback near the corner has no adverse impact on the adjoining properties due to site orientation and the corner location.

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 some units partially within the front building line partially within the front building line. The applicant has presented the following arguments in support of the variation:

- *The development proposes ground level courtyards for some units partially within the front building line. 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 Restwell and Macauley Streets.*
- *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 Restwell and Macauley 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 favourable 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 located within the Georges River Estuary Coastal Zone Management Plan. The proposed development does not contravene any relevant provisions of the plan.

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 4 May 2016 to 24 May 2016. No submissions were received during the notification period.

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.

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 remain, 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.