

ITEM	47 and 49 Percy Street, BANKSTOWN NSW 2200
	Demolition of existing site structures and construction of a six (6) storey residential flat building comprising of sixty (60) residential units and basement car parking under State Environmental Planning Policy (Affordable Rental Housing) 2009
FILE	DA-74/2017 (JRPP Ref: 2017SSH010)
ZONING	R4 High Density Residential
DATE OF LODGEMENT	8 February 2017
APPLICANT	Tony Owen
OWNERS	Christene Frances Boseley
ESTIMATED VALUE	\$17.35 Million
AUTHOR	Development Services

SUMMARY REPORT

This matter is reported to the Sydney South 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 \$17.35 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-74/2017 proposes the demolition of existing site structures and construction of a six (6) storey residential flat building comprising of sixty (60) residential units and basement car parking under State Environmental Planning Policy (Affordable Rental Housing) 2009.

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 (BDGP 2015).

The application has been assessed as generally compliant with the relevant controls with some minor variations to Bankstown Development Control Plan 2015 relating to setbacks which are discussed in more detail in this report. It is noted that the development is compliant with the setback controls contained within the Apartment Design Guide (ADG).

The application was advertised/notified for twenty-one (21) days, during which two (2) objections were received which outlined the following concerns.

- Construction noise, traffic and rubbish.
- Long term rubbish and dumping.
- Insufficient onsite and street parking.
- Affordable housing will not have a positive social impact for the area.
- Privacy impacts.
- Unit mix - only five (5) x 3 bedroom units for families.
- Existing childcare centre operating on the subject site will be closed and families will have to look for alternate care – vacancies are low within Bankstown.

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.

POLICY IMPACT

The matter has no direct policy impacts.

FINANCIAL IMPACT

The matter has no direct financial implications.

RECOMMENDATION

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

DA-74/2017 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site comprises of two (2) existing regular allotments, known as Nos.47-49 Percy Street, Bankstown and is zoned R4 High Density Residential under the *Bankstown Local Environmental Plan 2015*. The site has a total area of 2023m² and a frontage of 40.23m to Percy Street. The site contains a single-storey dwelling (on No. 47 Percy Street) and a childcare centre (on No. 49 Percy Street). There are no significant trees on the site, and one (1) tree located on Council's nature strip at the front of No. 47 Percy Street, which will not be affect by the development.

The surrounding area currently consists of predominantly single and two storey detached dwelling houses, dual occupancies and a villa development is located to the west of the subject site. The site is within 800 metres from Bankstown Train Station and is located approximately 300 metres away from Memorial Oval - a large public sporting complex comprising of sporting fields for both passive and active recreation.

Percy Street and Leonard Street are experiencing transition with the rezoning in March 2014 from R2 Low Density Residential to R4 High Density Residential. Recently Council has approved a number residential flat buildings along Leonard and Percy Streets including (but not limited to):

- A six storey, 38 unit residential flat building at 21-25 Leonard Street; and
- A six storey, 44 unit residential flat building at 41-43 Leonard Street; and
- A six storey, 30 unit residential flat building at 27, 29 & 33 Percy Street.

The site locality is illustrated in the aerial photo below.

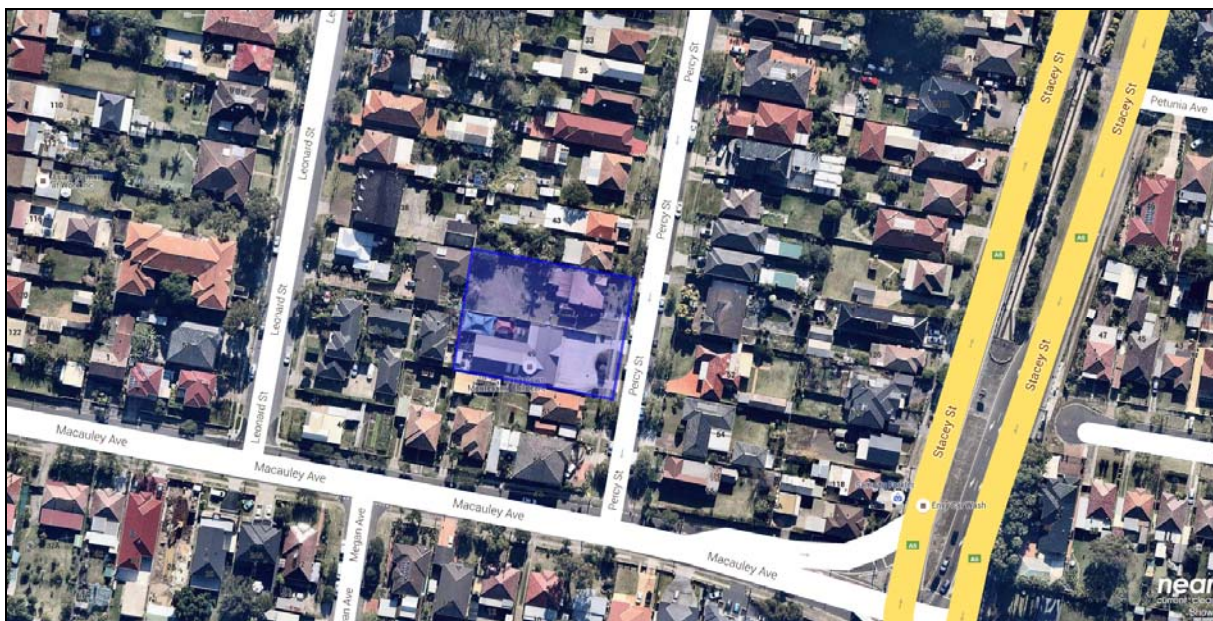


Figure 1. Aerial photo of the subject site (adapted from NearMap)

SITE HISTORY

On 5 October 2016, Council granted approval to DA-596/2016 on the subject site for the *'demolition of existing structures, consolidation of two (2) lots and construction of a residential flat building comprising of forty-nine (49) units over six (6) levels with basement parking and Strata subdivision'*. Unlike the current application on the subject site, the previously approved application was not proposed under State Environmental Planning Policy (Affordable Rental Housing) 2009.

PROPOSED DEVELOPMENT

The subject application proposes the following;

- Demolition of existing structures
- Construction of a six (6) storey residential flat building comprising of sixty (60) residential units
- Two (2) levels of basement carpark with sixty-nine (69) spaces
- One (1) studio, seventeen (17) x one bedroom, thirty-six (37) x two bedroom and five (5) x three bedroom apartments.
- Nineteen (19) apartments (G07, 202, 205, 206, 207, 208, 209, 210, 211, 301, 302, 305, 306, 307, 308, 403, 404, 503, & 504) will be allocated as affordable rental housing, which equates to 35% of the total gross floor area of the development. The apartments dedicated as affordable rental housing are now mixed over all floors of the development, as requested by the Panel at the original briefing.
- New vehicular access to the basement carpark is located off Percy Street with the driveway located towards to the southern end of the site.

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



MATTERS RAISED DURING THE JRPP BRIEFING

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

- *Communal open space - disjointed, no connection to common entries/lobbies. Ground floor to redesign to incorporate consolidated space*

The ground floor plan has been redesigned to provide direct access from the main common entry and corridor to the main communal open space area at the rear of the site.

- *Entry points not clearly defined - prefer single entry from front*

The ground floor plan has been redesigned to provide one main central entry point at the front of the site. The entry is clearly defined by a prominent entry feature.

- *Ground floor courtyards inadequate area/dimensions*

The ground floor apartments have been redesigned to achieve compliance with the minimum courtyard dimensions required by the ADG.

- *Building presentation - depth in façade, sun protection, design*

The issue of building presentation was raised with the applicant. The following response was received:

The façade remains unchanged from the previously approved DA, in which the façade was resolved through close and thorough liaison with council. The design has a specific strong design intent and includes a degree of solidity, materiality and modelling which may not be apparent from just a limited look at the plans. Accordingly we feel a horizontal slab expression is not a superior design outcome. Tony Owen Partners will explore the use of perforated sun screens in a mosaic pattern consistent with the design intent.

No details have been submitted in relation to the exploration of perforated sun screens. A condition of consent has been drafted for privacy screening to the side and rear boundaries which could be expanded to include the front elevation and wording to the satisfaction of the Panel to ensure that the issue of building presentation has been adequately resolved.

- *Architectural roof feature*

The latest plans show an architectural roof feature that breaks up the flat roofline and meets the requirements of Clause 5.6 of BLEP 2015.

- *Relocation of waste collection area*

Concern was raised in relation to the walkway along the northern boundary being dominated by bin storage areas. The design of the ground floor layout and walkway has been amended so that the occupants of the rear units are not forced to use the northern walkway as the only option for accessing their apartments. Instead the amendments result in the northern walkway being a secondary access option with the main entry for the rear units being via the centre of the development directly accessed off Percy Street.

As a main central entry has been provided for all apartments, the residents of the rear apartments will not be forced to walk past the bin storage area to access their apartments. Further, the bin storage area will be required to be fully enclosed, constructed of masonry material with a roof and roller door (or similar) to ensure that odors are contained and that bins are concealed.

SECTION 79C ASSESSMENT

The proposed development has been assessed in accordance with 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 located approximately 350m to a bus stop (on Restwell Street) 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	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

	planning instrument, and		
	(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 approximately 350m 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 Use, or within a land use zone that is equivalent to any of those zones.	N/A – land is located within Sydney region	N/A
11, 12 (Repealed)	-	-	-
13 Floor space ratios	(1) This clause applies to development to which this Division	19 units or 35% of the gross floor area of the development is to be used for the purpose of affordable housing.	Yes

	<p>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.</p>	<p>The units that are identified as affordable units are as follows:</p> <p><u>Ground floor</u>: G07</p> <p><u>Level 2</u>: 202, 205, 206, 207, 208, 209, 210 & 211</p> <p><u>Level 3</u>: 301, 302, 305, 306, 307, 308,</p> <p><u>Level 4</u>: 403 & 404</p> <p><u>Level 5</u>: 503 & 504</p>	
	<p>(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:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(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</p> <p>(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</p>	<p>The permitted floor space under BLEP 2015 is 1.75:1 plus an additional 0.35:1 applies to this development. In accordance with Clause 13(2)(a)(ii) total permitted floor space ratio is 2.1:1.</p> <p>Proposed FSR: 2.1:1</p>	Yes

	the development that is used for affordable housing. $Y = AH \div 100$		
14 Standards that cannot be used to refuse consent Site and solar access requirements	(a) Repealed	-	-
	(b) Site Area Minimum 450sqm	2023m ²	Yes
	(c) Landscaped Area at least 30 per cent of the site area is to be landscaped	Site area: 2023m ² Landscape area: 457.2m ² Landscape percentage: 23%	No. See comment below.
	(d) Deep Soil Zone 15% of total site area	Site area: 2023m ² Deep soil area: 325m ² Deep soil percentage: 16%	Yes
	(e) Solar Access Min 70% of dwellings to receive min 3hrs solar access between 9am and 3pm in mid-winter	67% 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 terms of solar access, it complies with the Apartment Design Guide by providing a minimum of 2 hours solar access to 82% of proposed units between 9am and 3pm during mid-winter. Note: 85% of proposed units will receive 2 hours solar access between 9am and 3pm during mid-winter, however when taking into consideration a potential future application for a similar development on the adjoining northern site it has been calculated that 72% of the units will still achieve 2 hours solar access between 9am and 3pm during mid-winter.	No. The development complies with the ADG by providing 2 hours solar access to 85% of proposed units. As the proposal meets the ADG, solar access is considered acceptable.
14(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	<ul style="list-style-type: none"> • 1 bed x 18 (0.5 spaces per unit) = 9 spaces • 2 bed x 37 (1 space per unit) = 37 spaces • 3 bed x 5 (1.5 spaces per unit) 	Yes

	dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.	<p>= 7.5 spaces</p> <p>Total spaces required = 54</p> <p>Total spaces provided = 69</p>	
	<p>(b) dwelling size</p> <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 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 are permitted.</p> <p>The site is located in an area which is under transition. A number of detached dwellings exist within the catchment area, however the emerging development type is high density residential, with examples of existing residential flat developments approved and under construction within the vicinity of the site. The sites adjoining are also zoned high density to the north, south and west, and medium density is located to the east on the opposite side of Percy Street.</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 transport nodes.	
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 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 and deep soil zones.

Solar access

The development complies with the solar access requirements of the ADG by providing 2 hours solar access to 85% of the proposed apartments. As the proposal generally meets the ADG (with the exception of the requirement that a maximum of 15% of apartments are permitted to receive no direct solar access - with 16.6% proposed), solar access is considered acceptable.

Landscape

The ADG requires 7% of the site to be dedicated as deep soil zones (with no specific requirement of landscape area). As this development proposes 23% landscape area and 16% deep soil zone (being much higher than the 7% required by the ADG), the minor non-compliance to the 30% landscape area (required by the AFHSEPP) is considered to be satisfactory in this case. Overall, the development provides for sufficient area for vegetation and species that have a good mature height.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land aims to promote the remediation of contaminated land to prevent the risk of harm to human health and the environment. Under the provisions of Clause 7 of SEPP 55, 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.

The development site has a history of low density residential and childcare centre purposes. There is no evidence to suggest that the site has been subject to any contaminating land uses and therefore the site is considered suitable for the proposed residential use. The application is satisfactory in regards to the objectives and requirements of State Environmental Planning Policy No 55—Remediation of Land.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Deemed SEPP)

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment*, being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. The proposed works are consistent with the relevant planning principles outlined in Clause 8 of the GMREP No 2 and the proposal does not include any of the specific development types that have specific planning requirements as listed under the 'planning control table'.

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

BASIX Certificate No. 734318M_03, dated Wednesday, 01 February 2017, 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.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, and the Apartment Design Guide (ADG)

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

'DESIGN CRITERIA'	PROPOSED	COMPLIANCE
<p>3D-1 Communal open space 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> <ul style="list-style-type: none"> • Co-locate with deep soil zones. • Minimum width of 3m. • Direct, equitable access from common circulation areas, entries and lobbies. 	<p>If all common walkways etc (minimum width of 3m) are included the total communal open space area would be a compliant 25%.</p> <p>17% of the site is clearly defined as communal open space, co-located with deep soil zones with a width greater than 3m (minimum 6m). This calculation excludes main common walkways along the northern boundary.</p> <p>Solar access is achieved to at least 50% of the communal open space area. The communal open space is co-located with deep soil areas.</p>	<p>Communal open space is in excess of 25% when including common walkways greater than 3m, however is less than 25% if these areas are excluded.</p> <p>Given the sites close proximity to the Bankstown Memorial Park (approximately 300m) and that the ground floor units have courtyards that are generally greater than the minimum requirements, it is considered that the proposed communal open space areas are acceptable in this instance.</p> <p>It is also noted that the plans have been amended to allow for the main common lobby/corridor with access through to access the rear communal open space area.</p>

[illegible]

	<p>POS between 9am – 3pm midwinter.</p> <p>Note: 85% of proposed units will receive 2 hours solar access between 9am and 3pm during mid-winter, however when taking into consideration a potential future application for a similar development on the adjoining northern site it has been calculated that 70% of the units will still achieve 2 hours solar access between 9am and 3pm during mid-winter.</p>	
<p>Maximum 15% of units receive no direct sunlight between 9 am and 3pm</p> <p>Design Guidance 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>10 of 60 units do not receive any direct sunlight (16.6%)</p> <p>Adjoining properties will maintain adequate solar access.</p>	<p>No. The non-compliance is minor, being 1.6% over the maximum 15% of all apartments permitted to receive no solar access.</p> <p>As the development overall achieves more than the minimum 70% of units to receive 2 hours solar access (85% rather than the 70%), the non-compliance (max of 15% to receive no solar access) is considered acceptable in this circumstance.</p> <p>Yes.</p>
<p>4B-3 Natural cross-ventilation</p> <p>60% of units to be naturally cross-ventilated.</p> <p>Overall depth of cross-</p>	<p>37 of 60 (62%) units are naturally cross-ventilated.</p> <p>Max. building depth is 12m.</p>	<p>Yes.</p>

over apartment does not exceed 18m.		Yes.
4C-1 Ceiling heights Min. 2.7m for habitable rooms. If variation is sought then satisfactory daylight access must be demonstrated.	Min. floor-to-ceiling heights are 2.7m.	Yes.
4D-1 Unit size 1 bed – min. 50m ² 2 bed – min. 70m ² 3 bed – min. 90m ² Add 5m ² for each additional bathroom/WC 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. Yes.
4D-2 Environmental performance In open plan layouts the maximum habitable room depth is 8m from a window	All open plan, max. depth 8m, to a window	Yes.
4D-3 Apartment layouts <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	The development achieves the minimum dimensions.	Yes.
4D-2 Room Depth <ul style="list-style-type: none">• Habitable room depth are limited to a maximum of 2.5 x ceiling height• In open plan layouts (where living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	The proposed development meets the minimum requirements for room depth.	Yes.
4E-1 Private Open Space 2 bed: Min. 10m ² , 2m depth 3 bed: Min 12m ² ,	All primary balconies, including ground floor units,	Yes.

2.4m depth to primary balconies. Ground level units: Min 15m ² , 3m depth	meet required minimum areas and dimensions.	
4F-1 Internal circulation The maximum number of apartments off a circulation core on a single level is eight.	Eleven apartments share two lifts on the ground floor (i.e. 5.5 apartments per circulation core). All other floors have eight or less apartments per circulation core.	Yes.
4G-1 Storage 1 bed: 4m ³ , 2 beds: 8m ³ , 3 beds: 10m ³ (At least half to be provided within the unit)	All units provided with sufficient storage, and at least half provided within the unit	Yes.

Bankstown Local Environmental Plan 2015

The relevant provisions contained within *the Bankstown Local Environmental Plan 2015* have been considered as follows;

- Cl. 1.2 Aims of Plan
- Cl. 1.3 Land to which Plan applies
- Cl. 1.4 Definitions
- Cl. 1.7 Maps
- Cl. 1.9A Suspension of covenants, agreements and instruments
- Cl. 2.1 Land use zones
- Cl. 2.2 Zoning of land to which Plan applies
- Cl. 2.3 Zone objectives and Land Use Table
- Cl. 2.6 Subdivision—consent requirements
- Cl. 2.7 Demolition requires development consent
- Cl. 4.1B Minimum lot sizes and special provisions for certain dwellings
- Cl. 4.3 Height of buildings
- Cl. 4.4 Floor space ratio
- Cl. 4.5 Calculation of floor space ratio and site area
- Cl. 5.6 Architectural roof feature
- Cl. 5.9 Preservation of trees or vegetation
- Cl. 6.1 Acid sulfate soils
- Cl. 6.2 Earthworks
- Cl. 6.3 Flood planning

A detailed assessment of the development application against a number of specific provisions contained within the *Bankstown Local Environmental Plan 2015* is as follows;

Clause 2.2 – Zoning of land to which Plan applies

The site is located on land zoned R4 High Density Residential.

Clause 2.3 – Zone objectives and Land Use Table

The proposal is generally consistent with the objectives of the R4 High Density Residential Zone. The Land Use Table sets out which development may be carried out in each zone. This table shows that development for the purposes of a 'residential flat building' is permitted with consent on land zoned R4 High Density Residential.

Clause 4.1B – Minimum lot sizes and special provisions for certain dwellings

Development for the purposes of a residential flat building in zone R4 High Density Residential requires a minimum land area of 1,500m² and a minimum width of 30 metres at the front building line. The subject allotment has an area of 2023m², and a frontage of 40.23m and thereby satisfies this requirement.

Clause 4.3 – Height of buildings

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 of Buildings Map prescribes a maximum building height of 19 metres on the subject allotment. The proposal is for a maximum building height of 19 metres and therefore satisfies this requirement.

There are some minor encroachments of the lift overruns which are concealed by the architectural roof feature and two clerestory windows which will be required by a condition of consent (in lieu of the skylights shown on the plans). The clerestory windows will be hidden behind the architectural roof feature. The lift overruns and the clerestory windows meet the requirements set out in Clause 5.6 of BLEP 2015 'architectural roof feature' which are permitted to extend above the maximum 19m building height as discussed below.

Clause 4.4 – Floor space ratio

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The floor space ratio map shows the maximum permitted floor space ratio as 1.75:1 on the subject site.

As the development is proposed under State Environmental Planning Policy (Affordable Rental Housing) 2009 it therefore qualifies for bonus floor space. The FSR proposed is 2.1:1 which complies with the ARH SEPP.

Clause 4.5 – Calculation of floor space ratio and site area

The floor space ratio calculations were calculated accordingly.

Clause 5.6 – Architectural roof features

Although the building complies with the maximum building height of 19m specified under Clause 4.3 of BLEP 2015, the development proposes architectural roof features that protrude beyond the maximum 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.*

As discussed above in Clause 4.3 Height of buildings, the proposed lift overruns and clerestory windows can be considered 'architectural roof features' and permitted by Clause 5.6 to project above the maximum building height.

Clause 5.9 – Preservation of trees or vegetation

The development application proposes to retain (1) one street tree located in Council's nature strip at the front of the site. There are no other significant trees subject to assessment under this clause.

Clause 6.1 – Acid sulfate soils

The development site is affected by Class 5 Acid Sulfate Soils. Further consideration would be required for works on Class 5 affected land within 500 metres of adjacent Class 1, 2, 3, or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

The site is located within approximately 250 metres of Class 4 acid sulfate soils at 5 metres AHD. However the development would not result in a significant impact on the watertable to the extent that it would be lowered. Therefore an Acid Sulfate Soils Management Plan is not required at this stage. The proposed development is satisfactory with regard to Clause 6.1 of the BLEP 2015 subject to a condition of consent requiring an environmental consultant to manage the acid sulfate soils if they are encountered during excavations and/or works.

Clause 6.2 - Earthworks

The required excavation for basement car parking is not considered to have a detrimental impact on environmental functions, processes and neighbouring uses of the surrounding land. Clause 6.2 can be satisfied subject to conditions requiring a dilapidation report for the adjoining properties prior to excavation for the basement.

Clause 6.3 – Flood planning

The development site is affected by medium risk flooding. The proposal has been assessed by Council's Development Engineer and has been found to be satisfactory.

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

There are no draft environmental planning instruments that are applicable in this instance.

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

Bankstown Development Control Plan 2015

The site is located within the CBD Southern Frame and therefore subject to assessment under Part A1 Centres of the *Bankstown Development Control Plan 2015*. There are no specific controls relating to the site. It is considered the proposed development is generally consistent with the objectives of Part A1.

The development application proposes a residential flat building within an R4 High Density Residential Zone and is therefore subject to assessment under Part B1 of the BDCP 2015. The application generally complies with the controls contained within Part B1 of the BDCP 2015, as detailed in the compliance table below.

DCP CONTROL		PROPOSAL	COMPLIANCE
Clause 9.1	The development is not to isolate land with an area of less than 1,200m ² and a width of less than 20m.	The proposed development will not result in the isolation of allotments.	Yes.
Clause 9.2	Max. Storey limit (not including basements) is 6 Storeys	Six storeys (no attic).	Yes.
Clause 9.3	The siting must be compatible with the existing slope and contours of the allotment and any adjoining property.	Achieves compatibility with the existing slope of the allotment and adjoining properties.	Yes.
Clause 9.4	Any reconstituted ground level on the allotment must not exceed a height of 600mm above the natural ground level	<600mm.	Yes

	of an adjoining property.		
Clause 9.5	6m min setback to the primary frontage.	6 metres.	Yes
Clause 9.8	Setbacks to the side and rear boundaries Min. 4.5m provided the average setback is 0.6 multiplied by the wall height.	<p>The maximum wall height of the proposed development is 19m, therefore a minimum setback of 4.5m is required to the side boundaries with an average setback of 11.4m.</p> <p>The application proposes a setback ranging from 7m to 12m to the southern (side) boundary, 6m to 8m to the northern (side) boundary, and 6m to 10m to the western (rear) boundary.</p>	<p>No. The proximity of the building to the side boundaries of the site has been assessed in detail above under the visual privacy and building separation controls contained in the ADG, and have been assessed as compliant.</p> <p>It is therefore considered that the proposed development is acceptable with respect to the proposed side and rear setbacks, and the development generally achieves the intent of the setback control contained within Council's Development Control Plan.</p>
Clause 9.10	Basement setback Min. setback for a basement level to the side and rear boundaries of the allotment is 2 metres.	The setback of the basement to the side and rear boundaries is greater than 2m, with the exception of the stairs to the north-east corner which proposes a nil setback.	<p>No. The portion containing the nil setback of the basement to the site boundary is for a width of 5.4 metres to accommodate a staircase from the basement to the ground floor. The fire stairs are required under the BCA and have been specifically located to achieve a garbage storage area on the ground level within close proximity to the kerb.</p> <p>It is noted that the encroachment of the firestairs within the side setback will be within an area normally dedicated as a deep soil zone, however the development provides 23% of the site as dedicated deep soil zones (although the ADG only requires 7%).</p>

			<p>This minor non-compliance is considered to be acceptable, subject to the imposition of a condition of consent requiring dilapidation reports to be prepared for the adjoining properties to the north, south and west prior to the commencement of construction works.</p>
<p>Clause 9.12</p>	<p>Private open space Located behind the front building line, with the exclusion of balconies used to articulate the façade.</p>	<p>The courtyards of the ground floor units along the street frontage are located within the 6m front setback. The private open space of these units are setback a minimum of 3m from the front eastern boundary.</p>	<p>No. The courtyards fencing along the front boundary equates to 50% of the length of the boundary.</p> <p>Although the DCP stipulates that courtyards are to be provided behind the front building line, the location of the courtyards along the eastern boundary is beneficial in terms of solar access. The courtyards will achieve solar access between 8am and 11am during mid-winter.</p> <p>The courtyard fencing proposed along the front boundary is 1m solid with the remaining height up to 1.8m being open style. In addition, the fences are screened by proposed landscaping.</p> <p>The general layout and location of the front courtyards are consistent with recent residential flat building approvals in the locality.</p> <p>This non-compliance is considered to be acceptable in this case due to the reasons listed above.</p>
<p>Clause 9.13</p>	<p>All existing dwellings must be demolished.</p>	<p>Demolition of all structures is proposed as part of this application.</p>	<p>Yes.</p>

Clause 9.14	Min. of one adaptable dwelling for every 50 dwellings.	3 adaptable dwellings proposed.	Yes.
Clause 9.15	Max. roof pitch 35°.	Flat roof.	Yes.
Clause 9.20	The siting of a plant room, lift motor room, mechanical ventilation stack, exhaust stack, and the like must: (a) integrate with the architectural features of the building to which it is attached; or (b) be sufficiently screened when viewed from the street and neighbouring properties.	Services have been adequately integrated and screened where possible. Majority have been located in the basement, away from view.	Yes.
Clause 9.21	Parking must be behind the front building line.	Basement parking.	Yes.
Clause 2.22	Minimum requirements for waste storage.	In accordance with the requirements of Council's Resource Recovery Team, the following bins are required: <ul style="list-style-type: none"> • 6 x 1100L + 1 x 660L bulk garbage bins (collected weekly) • 6 x 1100L + 1 x 660L bulk recycling bins (collected weekly). 	Yes.

Coastal zone management plan (within the meaning of the Coastal Protection Act 1979), [section 79C(1)(a)(v)]

The proposal does not contravene the provisions contained within the Georges River Estuary Coastal Zone Management Plan.

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

No planning agreement has been entered into under section 93F nor has the applicant offered to enter into a planning agreement.

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

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

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

The proposed development is not considered likely to result in any significant detrimental environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development controls and/or the 'design criteria' in the ADG occur, these are adequately justified. As such, it is considered that the impact of the proposed development on the locality is acceptable.

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

The site is considered suitable for the proposed development. The proposed development results in an appropriate built form for the site which is consistent with the longer term 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 transition.

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

The application was advertised/notified for twenty-one (21) days, during which two (2) objections were received which outlined the following concerns.

- Construction noise, traffic and rubbish.
- Long term rubbish and dumping.
- Insufficient onsite and street parking.
- Affordable housing will not have a positive social impact for the area.
- Privacy impacts.
- Unit mix - only five (5) x 3 bedroom units for families.
- Existing childcare centre operating on the subject site will be closed and families will have to look for alternate care – vacancies are low within Bankstown.

While the amended plans were lodged with Council, they provide for minor changes that were essentially cosmetic in nature. Bankstown Development Control Plan 2015 is silent within respect to requiring re-notification of application to occur upon the receipt of amended plans.

In light of the extent of the changes undertaken, neighbour notification of the amended plans was not considered necessary.

Construction noise, traffic and rubbish

Potential construction impacts of the development (including noise, traffic and waste) have been addressed in the assessment of the application and also by the

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 construction.

Long term rubbish and dumping

There is no evidence to suggest that the proposed development would result in any direct increase in rubbish and dumping once the development is constructed and the occupants move in.

Insufficient onsite and street parking and additional traffic

It is considered that Percy Street and the surrounding street network has sufficient capacity to accommodate any potential additional traffic and car parking 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.

Affordable housing will not have a positive social impact for the area

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'*.

The site is considered to be within an 'accessible area' and therefore the site qualifies to be considered for an Affordable Rental Housing Development. Accessible area means land that is within:

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 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
- (c) 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 is noted that 'residential flat buildings' are permitted on the site and the site is located within an 'accessible area' to be considered as affordable rental housing. There is no evidence to suggest that the proposed development would result in any direct increase in anti-social issues in the locality.

Privacy impacts

Privacy relating to the height of the fence and the provision of balconies have been dealt with via conditions of consent. The relevant conditions read as follows:

- The landscape plan shall include the provision for the replacement of all boundary fencing. A new 1.8m fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. An additional 300mm of privacy screening shall be attached to the top of the 1.8m high fence. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material unless the type of material is stipulated in any flood study prepared for the site. The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.
- Privacy screening is to be provided to all balconies on levels 1, 2, 3, 4 & 5 on the north, south and western elevations to a minimum of 50% of the length of the balcony (as measured parallel to the adjoining property boundary). The privacy screening shall be angled/moveable to allow for the sun to penetrate in mid-winter to ensure all apartments that currently receive the minimum 2 hours solar access during mid-winter continue to achieve the minimum standard once the screening is in place. Details of such shall be submitted to and approved by the PCA prior to the issue of a Construction Certificate.

Unit mix - only five (5) x 3 bedroom units for families

The development provides 18 x one bedroom, 37 x two bedroom and 5 x three bedroom apartments. The unit mix is one that is driven by the market and there are no relevant planning controls that require a change in the distribution of the mix.

Existing childcare centre operating on the subject site will be closed - families will have to look for alternate care vacancies are low within Bankstown

The demolition and subsequent closure of the existing childcare centre is a market decision for the owner. There are no relevant policy requirements for Council's consideration in this regard.

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the development controls contained in the *Bankstown Development Control Plan 2015* and the *Bankstown Local Environmental Plan 2015*, and the requirements of the *SEPP 65 Design Quality of Residential Apartment Development* 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, while being considerate to the existing surrounding development during the transition.

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.