

ITEM	77-79 Waldron Road, Chester Hill Demolition of existing site structure, construction of a four (4) storey boarding house comprising of fifty (50) boarding rooms, managers room, communal room, neighbourhood shop at ground floor level, and associated car-parking.
JRPP REF.	2017SSH042 DA
FILE	DA-840/2017
ZONING	R4 – High Density Residential
DATE OF LODGEMENT	11 September 2017
APPLICANT	Hamptons Property Services Pty Ltd
SITE AREA	1,268.9m²
OWNERS	V T Pham, T C Luong, T U Tran & T N Luong.
ESTIMATED VALUE	\$5,346,227
AUTHOR	Development

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 capital investment value that exceeds the threshold of \$5 million for '*Private infrastructure and community facilities*' (*Schedule 7, Cl 5(b)*).

Development Application No. DA-840/2017 was lodged under *SEPP (ARH) 2009*, and proposes the demolition of existing site structures, construction of a new four (4) storey boarding house consisting of fifty (50) boarding rooms, one (1) boarding room manager's residence, one (1) communal room, a neighbourhood shop and associated car parking.

The proposal has been assessed against the relevant provisions of *State Environmental Planning Policy (Infrastructure) 2007*, *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*, *Bankstown Local Environmental Plan 2015* and *Bankstown Development Control Plan 2015*. The application fails to comply with Cl 29 (2) (e) (iia) of *SEPP (Affordable Rental Housing) 2009* in regards to the provision of parking for boarding rooms. As the attached assessment report details, the proposed non-compliance is not considered to be appropriate in the context of the site, and is considered to be contrary to the State Government's current standards for boarding house developments.

The application was advertised and notified for a period of twenty one (21) days. Two (2) submissions were received and related primarily to over development. Other concerns raised include parking, traffic, density, construction noise and management of the facility.

In accordance with *SEPP (Infrastructure) 2007*, a referral to the electricity supply authority is triggered by Clause 45 (1) (b) (iii). The application was referred to Aus Grid and recommended conditions of consent have been received. Clause 85 requires a referral to the Sydney Trains (on behalf of Rail Corporation New South Wales). This body has provided recommended conditions of consent to satisfy this provision.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be refused for the reasons set out in Attachment 'B'.

DA-840/2017 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

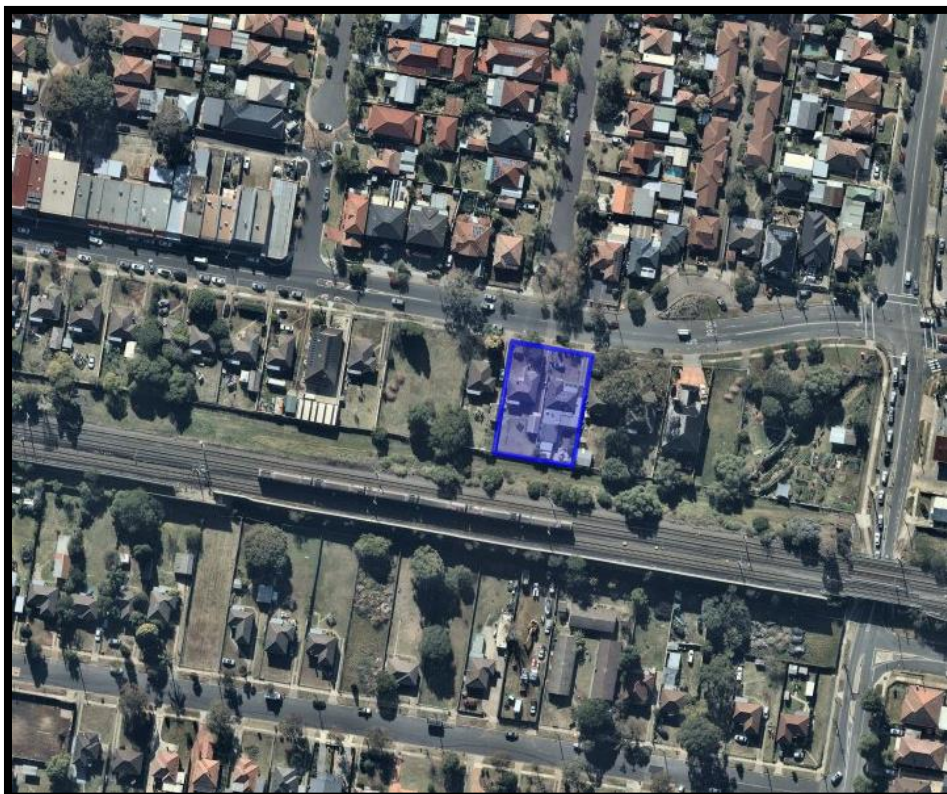
The subject site is known as 77 and 79 Waldron Road Chester Hill and consists of two (2) allotments identified as Lot 62 and 63 in DP 23866. It is zoned R4 – High Density Residential and has an area of 1,268.9m². This site has a frontage of 30.48 metres along Waldron Road to the north, is bounded by residential properties to the east & west, and the rear boundary adjoins the Southern Sydney Freight railway corridor.

The site falls approximately 980mm from the west to the east and existing development on the site includes two (2) residential cottages with ancillary structures such as a front fence, carports, shed and free-standing garage.

Surrounding development is primarily single storey residential cottages adjacent to the subject site and two storey dual occupancy development within the periphery. The site is located within the 'Residential Transitional Area' of Chester Hill Village Centre, approximately 92 metres to the Chester Hill 'Retail Core' and 500m walk west to Chester Hill Train Station. To the east 500 metres is Sefton Small Village Centre and Sefton Train Station is a 700 metre walk.

The area was up-zoned on 22 January 2016 from R2 – Low Density Residential (to R4 –High Density Residential), a prescribed FSR of 0.5:1 (to 1:1) and total building height of 9m (to 13m).

The context of the subject site is illustrated in the aerial photo below:



PROPOSED DEVELOPMENT

DA-840/2017 proposes the following works:

- Demolition of existing structures;
- Removal of existing street trees and on-site vegetation;
- Construction of a four (4) storey boarding house development comprising of:
 - Fifty (50) boarding rooms;
 - One (1) boarding house managers residence;
 - One (1) neighbourhood shop on ground level;
 - Communal room;
 - Associated car parking area to the rear; and
 - Associated landscaping.

An extract of the proposed site plan is provided below to illustrate the ground level of the proposal:



SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental Planning Instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy (State and Regional Development) 2011

According to *SEPP (State and Regional Development) 2011*, 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 Schedule 7 of this Policy (as mandated by Cl 4.5 (b) of *Environmental Planning and Assessment Act 1979*).

Schedule 7 of *SEPP (State and Regional Development) 2011*, includes 'private infrastructure and community facilities over \$5 million'. The proposed development falls within this category (under Clause 5 (b)) as it is for the purpose of 'affordable housing' with a capital investment value in excess of \$5 million. Accordingly, the application has been reported to the Sydney South Planning Panel for determination.

A Panel briefing was held on 1 November 2017, at which the Panel members requested that certain matters be elucidated in Council's assessment of the proposed development. These matters are summarised below and further assessment of these matters is addressed in the relevant sections of the assessment that follows.

Building Envelope

The Panel and Council's assessment raised concern with the proposed building envelope with particular regard for the setbacks proposed upon initial briefing. The proposal has since been amended but still fails to comply with Council's side setback control (Cl 10.15, Part B1 – BDCP 2015). Justification has been provided by the applicant for this non-compliance and this is explored in detail in a later section of this report.

Solar Access

The original proposal briefed to the Panel did not comply with Council's solar access provisions to the boarding rooms and communal open space. The applicant has amended the proposal and compliance is now achieved.

Future Streetscape

The original application briefed to the Panel included a zero front setback. Council and the Panel raised concern with the impact a zero setback would have on the future streetscape of Waldron Road. In particular, the ad hoc building line that would be created with the subject site being the only development with a nil setback in the 'residential transition area' and its distance and lack of distinction from the 'retail core'. The applicant has since amended the proposal to include a six (6) metre setback to Waldron Road and subsequently complying with Council's Development Control Plan.

Permissibility of Neighborhood Shops

The original application briefed to the Panel included two (2) neighbourhood shops on the ground floor. This failed to comply with Council's Development Control Plan in regards to a maximum one (1) neighbourhood shop per an allotment and concern was raised by Council and the Panel in regards to the viability of two (2) shops located within close proximity but not within the 'retail core' of Chester Hill Village. The applicant has since amended the proposal to only include one (1) neighbourhood shop facing Waldron Road and subsequently complying with Council's Development Control Plan.

Rear Setback & Acoustic Treatment

At the time of briefing, concerns were raised in regards to the setback of the development from the adjoining freight line. In particular, the applicant was asked to investigate if a potential increase to the rear setback would benefit the amenity of boarders in regards to acoustic treatment (i.e. if it would increase the ability of lodgers to open doors and windows). An amended acoustic report submitted by the applicant reviews this (section 5.2.1, page 7 of 17 of report titled 'Noise Assessment for proposed mixed-use residential & retail development at 77-79 Waldron Road, Chester Hill, dated 1512/2017) and concludes, *"Increasing the setback by an amount that is feasible, for example 5m, will result in virtually no change in the noise ingress from trains"*.

Open Space for the boarding room manager

The original application as briefed to the Panel proposed private open space for the exclusive use of the boarding house manager that did not achieve a width of 2.5 m throughout. The applicant has amended the proposal to comply.

State Environmental Planning Policy (Infrastructure) 2007

The aim of this policy is to facilitate the effective delivery of infrastructure.

When assessing developments adjacent to the rail corridor, Clause 87 of *State Environmental Planning Policy (Infrastructure) 2007* requires the consent authority to consider the likely impact of rail noise and vibration on sensitive uses such as residential accommodation. Council's assessment notes the acoustic report submitted as part of the application ('Noise Assessment for Proposed Mixed-Use Residential & Retail Development at 77-79 Waldron Road, Chester Hill', dated 15/12/2017, prepared by Osborn Fong of Acoustic Directs Pty Ltd) addresses any potential impacts in accordance with the "*Department of Planning Development Near Rail Corridors and Busy Roads – Interim Guideline*".

The current proposal triggered referrals to two (2) bodies. This was to Sydney Trains (on behalf of Rail Cooperation New South Wales) and AusGrid.

Sydney Trains

Clause 85 of *State Environmental Planning Policy (Infrastructure) 2007* requires proposed developments adjacent to rail corridors to be referred to the relevant rail authority due to the potential impact of developments on rail safety.

The subject site adjoins the train line and subsequently the application was referred to Sydney Trains for comment. Initial concerns raised by Sydney Trains centered on the potential for items to be thrown from rear balconies to the train tracks. Discussions with the applicant in this regard resolved that if the application was to be approved, a condition of consent requiring the visual privacy screen elements to be included to the rear elevation to minimise the likelihood of objects being dropped, thrown or blown onto the rail corridor be imposed. No further objections were raised by this body, subject to conditions of consent relating to the submission of an electrolysis report, submission of a geotechnical and structural engineers report, risk assessment, details of the machinery to be used on site and ensuring future fencing limits opportunity for vandalism.

AusGrid

Clause 45 of *State Environmental Planning Policy (Infrastructure) 2007* requires proposed developments within 5 metres to an exposed overhead electricity power line to be referred to the relevant electricity supply authority. The front façade includes an awning which triggers a referral to Ausgrid. The review of this proposal has raised no objections subject to recommended conditions of consent.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Division 3 of SEPP (ARH) 2009 provides controls for boarding house developments. The below table provides a summary of the controls set out in this Policy in regards to this development:

Control	Comment	Compliance
CI 29 – Standards that cannot be used to refuse		
Floor Space Ratio (FSR) Bonus 0.5:1 FSR.	The bonus affords the proposal an additional 0.5:1 FSR, allowing a total 1.5:1 FSR for the development.	Yes

	The proposed FSR for the development is 1.47 :1.	
Building Height Not more height than that permitted under any other EPI.	The proposed total building height is 12.67m. This is within the 13m height limit prescribed by BLEP 2015	Yes
Landscaped Area Front setback is compatible with the streetscape	The current streetscape is characterised by large setbacks and front fences. While the proposal is compatible with the existing streetscape, it is considered the proposal represents the desired future character of the locality (i.e. reduced setbacks and landscaped front entry).	Yes
Solar Access A communal living area to receive 3 hours between 9am and 3pm in mid-winter	The north facing communal living room on the ground floor receives the required three (3) hours between mid-day and 3pm.	Yes
Private Open Space 20 sq metres required with a minimum dimension of 3m for lodgers & 8 sq metres with a minimum dimension of 2.5m for the boarding house manager.	Both areas are provided on the western setback in accordance with these requirements.	Yes
Parking At least 0.5 spaces / boarding room + not more than 1 space for each employee	The proposal includes 50 boarding rooms. $50 / 0.5 = 25$ car spaces are required. Only 11 spaces have been provided (including an accessible space).	No – See below
Accommodation size Minimum GFA (excluding private kitchen and bathrooms) is 12 sq metres for single lodging rooms and 16 sq metres in any other case.	The proposed rooms comply with this requirement. The smallest room being 16 m ² and the largest being 24 m ² (when excluding the private kitchen and bathroom facilities).	Yes
CI 30 – Standards for boarding houses		
Communal Living Room ≥ 5 boarding rooms = at least one communal room.	Communal ground floor kitchen / living room provided.	Yes.
Maximum GFA 25sq metres (excluding private kitchen and bathroom) per room.	Largest rooms are 24 sqm metres.	Yes.
Maximum occupants Per a boarding room is 2 adult lodgers	Largest rooms are doubles. These are designed to only accommodate two people.	Yes.
Facilities	Individual facilities provided in each room.	Yes.

Bathroom and kitchen to be provided within boarding house.		
Boarding Room Manager To be provided if 20 + lodgers.	Proposed with required facilities on ground floor.	Yes.
Motorcycle/Bicycle Parking 1 space each per every 5 boarding rooms.	10 spaces proposed for each mode of transport.	Yes
CL 30A – Character of the Local Area		
Character Design of the development is compatible with the character of the local area.	<p>In accordance with planning circular PS 18-001 (issued 16 Jan 2018), character is <i>‘the way a place looks and feels’</i>. The circular goes on to say <i>“Character can be reflected in a LEP in its aims (Clause 1.2 of the Standard Instrument LEP) where a council can describe the characteristics of the LGA, through zone objectives, in principal development standards (such as height and FSR controls)”</i>.</p> <p>The proposal presented to the Panel is distinctively different from the existing character of the locality which is currently comprised of primarily single storey cottages and small number of two (2) storey dual occupancy development.</p> <p>The desired future character as set out by Council’s controls is for higher density residential in regards to built form and urban typology. This proposal is generally in accordance with this vision.</p>	

Parking non-compliance:

On 1 June 2018, Clause 29 (2)(e)(ia) of the SEPP was amended to require 0.5 car spaces per a boarding room for boarding house developments not carried out by or on behalf of a social housing provider. In accordance with this calculation, the proposal before the Panel requires twenty five (25) car spaces for exclusive use of the boarding room lodgers. Eleven (11) spaces have currently been allocated hence the proposal does not achieve the required amount of off-street car spaces. This is a deficiency of fourteen (14) spaces or 56%. It is noted this standard allows for Council’s discretion in its application. A review of this application including the development type and context noted there to be no merit in the particulars of this case and the proposal is consistent with the type intended to provide the benchmark on-site car parking rate outlined by the Department by virtue of *SEPP (ARH) 2009*. The standard in the SEPP directly addresses boarding house development within residential zones (i.e. R4). It can be assumed the Department intends strict compliance with the revised car parking rate as this is informed by the current demand for parking experienced by boarding house developments across the state and the absence of any savings provisions within the Policy alludes to the intention being to disallow any concession to this rate.

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of Clause 7 (1) 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.*

It is understood the development site has been used for residential uses since subdivision in 1952 and the development application presented to the Panel seeks to retain the use of the site for primarily a residential purpose. Council records do not suggest the site has been used for any purpose listed in Table 1 of '*Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land*' (1998) and a site inspection noted there to be no evidence of fill onsite.

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

This Policy aims to encourage sustainable residential development. Council is of the view this Policy does not apply to boarding house development as the development is classified as class 3, 6 and 7a therefore section J of the BCA would specify the energy efficiency requirements of these buildings classification. Recent case law (*SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66*), identified a BASIX certificate is required for boarding house developments as boarding rooms with kitchen and bathroom facilities internal to the rooms have the capability of be use or occupied as a separate domiciles. Subsequent to this, the development would partially be categorised as Class 2 and trigger the requirement for a BASIX Certificate. The applicant is not of the view the development is class 2 but has provided a BASIX certificate for completeness.

Bankstown Local Environmental Plan 2015

The proposed development is satisfactory with regard to the relevant provisions of the *Bankstown Local Environmental Plan 2015*, including the following:

Clause 1.2 Aims of Plan

The proposed development is consistent with the relevant aims of the BLEP 2015:

- (a) *to manage growth in a way that contributes to the sustainability of Bankstown, and recognises the needs and aspirations of the community,*

- (b) *to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,*
- (c) *to protect the natural, cultural and built heritage of Bankstown,*
- (d) *to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,*
- (e) *to minimise risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,*
- (f) *to provide a range of housing opportunities to cater for changing demographics and population needs,*
- (g) *to provide a range of business and industrial opportunities to encourage local employment and economic growth,*
- (h) *to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,*
- (i) *to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
- (j) *to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,*
- (k) *to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,*
- (l) *to enhance the quality of life and the social well-being and amenity of the community.*

Comment: The proposal generally complies with the relevant aims of this Plan.

Clause 2.3 Zone objectives and Land Use Table

The site is located in Zone R4 – High Density Residential, which permits development for the purposes of a ‘boarding house’ and ‘neighbourhood shops’. The elements that make up the proposed development fall within these definitions and are permitted with consent on the subject site. Moreover, the proposal is consistent with the objectives of the R4 zone, being:

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

Comment: The proposal remains consistent the aims of the R4 land use zone as the proposal is the provision of housing in a higher density setting.

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

Clause 4.1B set lot widths and sizes to ‘*minimise any likely adverse impact of the development on the amenity of the area*’ (Cl 4.1B (1) (d)). In the case of residential accommodation, the clause aims to ensure lots ‘*are of a sufficient size to accommodate proposed dwellings, setbacks to adjoining residential land, private open space and landscaped area, driveways and vehicle manoeuvring areas*’ (Cl

4.1B (1)(a)). Subclause (2) (a) sets the lot area and width of the lot at the front building line required of boarding development in Zone R4 High Density Residential zone. This is summarised below along with the proposals compliance.

Column 1	Column 2	Column 3	Column 4
Multi dwelling and boarding houses	Zone R4 High Density Residential	1,000 square metres	20 metres
Comment:			
The proposal is a boarding house development.	The land use zone is R4 High Density Residential	The site is 1,268.9 square metres. Complies	The site has a frontage of 30.48 metres in total. Complies.

Clause 4.3 Height of buildings

The subject site has a prescribed height of 13 metres in accordance with the LEP Height of Buildings Map. The development has a total building height of 12.67 metres with the highest element being the clerestory window to the southern section of the roof. The proposal complies with Council's controls.

Clause 4.4 Floor space ratio

The proposal has a total FSR of 1.47:1. In accordance with the LEP Floor Space Ratio Map, the maximum permitted floor space ratio for the subject site is 1:1. The proposal is afforded an additional 0.5:1 FSR by virtue of Clause 29 (1) (c) (i) of *SEPP (Affordable Rental Housing) 2009*. Subsequently, the proposal complies.

Clause 5.4 Miscellaneous permissible uses

Clause 5.4 (7) limits development for the purpose of a neighbourhood shop to a maximum the retail floor area of 90 square metres. The proposal contains one (1) neighbour shop on the ground floor with a total retail floor area of 64 m² therefore complying with this control.

Clause 6.2 Earthworks

According to clause 6.2, earthworks may be undertaken with consent, however only where certain criteria are met. The proposed development satisfies the relevant criteria, which include:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*

- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposal does not involve extensive excavation or filling as the proposed parking is at grade and the floor level of the ground level is generally consistent with the topography of the site. It is not considered the minimal earthworks required for site preparation does not achieve the above matters.

Clause 6.3 Flood Planning

In accordance with Clause 6.3 (3), ‘development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- a) *is compatible with the flood hazard of the land, and*
- b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- c) *incorporates appropriate measures to manage risk to life from flood, and*
- d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding’.*

The proposal has been reviewed by Council’s Development Engineer and is deemed to satisfy the above mentioned provisions.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

There are no draft environmental planning instruments applicable to the proposed development.

Development control plans [section 4.15(1)(a)(iii)]

Part A1 – Centres

The subject site is identified to be located with the ‘Residential Transitional area’ of the ‘Chester Hill Village Centre’. The proposal generally complies with the objective of this area in regards to the desired future character and built form.

The below table provides a summary of the development controls contained within Section 4, Part A1, BDCP 2015 and the proposal’s complies:

CONTROL	BDCP 2015 PART A1	
	PROPOSED	COMPLIES?
Storey Limit		Yes.

CONTROL	BDCP 2015 PART A1	
	PROPOSED	COMPLIES?
Where the maximum HOB under BLEP 2015 is 13 metres, four (4) storeys (not including basements) is permitted.	4 Storeys.	
Rear Setback The subject site must have a 12m setback from the rear boundary OR incorporate appropriate measures to ensure the following LAeq levels are not exceeds: <ul style="list-style-type: none"> in any bedroom in the building – 35 dB(A) at any time between 10pm and 7am; and Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 Db(A) at any time. 	An acoustic report has been submitted that demonstrate complies with the noise criterion.	Yes.
Active Street Frontage The design of street frontages must ensure: <i>'a) the ground floor is at the same general level as the footpath and accessible directly from the street; and</i> <i>b) the ground floor provides a positive street address in the form of entries' lobbies and clear glazing that contributes to street activity and promote passive surveillance, The ground floor façade must minimise large expanses of blank walls'.</i>	The FFL of the proposed shop is 28.50. The adjoining footpath ranges from 28.54-28.58. The front facade is primarily glass walls.	Yes.
Vehicle footpath crossing The development must optimise the opportunities for actives street frontages and street designs by : <i>'a) making vehicles access points as narrow as possible;</i> <i>b) limiting the number of vehicle access ways to a minimum'.</i>	The current proposal includes one driveway and associated VFC on the eastern side of the frontage to Waldron Road.	Yes.

Part B1 – Residential Development

The following table provides a summary of the development application against the key development controls contained in Section 10 – Boarding Houses and 16 – Neighborhood Shops, *Part B1* of the *Bankstown Development Control Plan 2015*.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
Boarding House		
Isolation of allotments Cannot isolate land with an area of less than 1,200m ² and a width of less than 20 metres at the front building line	Adjoining allotments are 607 m ² and 15.24 meters in width. Sufficient lots available to consolidate.	Yes.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
Primary setback Minimum 6m.	6m	Yes.
Side & rear setback Minimum setback is 4.5 metres provided the average setback is 0.6 multiplied by wall height.	Rear : Average required is 7.67m and average provided is 3.4m. This is a shortfall of 4.36 metres. Western & Eastern setback: Average required is 7.21m and an average of 4.75 m is provided. This is a shortfall of 2.46 metres.	No – However the proposed non-compliance demonstrates sufficient merit to be considered. <i>See notes below.</i>
Driveway setback Minimum setback of 1 metre to side and rear boundaries.	1m to eastern boundary and 3m to rear boundary.	Yes.
Private Open Space Boarding houses must provide: a) One area of 20m ² (3mx3m) b) If a boarding house manger is proposed – one area of at least 8m ² (2.5mx 2.5m). This space must be behind the front building line.	20m ² allocated to communal open space on western setback adjacent to the communal room. Private open space allocated to the boarding house manager on western setback adjacent to the managers boarding room.	Yes.
Solar Access Boarding rooms – 70% of rooms achieve 3 hours of solar access between 8am and 4pm at mid-winter solstice. Communal living room – 3 hours of solar access between 8am and 4 pm at mid-winter solstice. Adjoining residence - 3 hours of solar between 8am and 4 pm at mid-winter solstice. Adjoining POS – 50 % of POS receives 3 hours of solar between 8am and 4 pm at mid-winter solstice. Avoid overshadowing to adjoining solar panels.	Boarding rooms – Over 70% of the boarding rooms receive solar access with the reliance of the clerestory windows. This is in accordance with Council's control. The communal living area achieves 4 hours of solar access between midday to 4 pm. The proposal does overshadow #81 Waldron Road. A kitchen window is identified on the western elevation which will continue to receive 3 hours of solar access as it is unaffected by this development. A living area is also identified to the east and the applicant has demonstrated sufficient solar access will remain to this window.	Yes.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
	<p># 75 Waldron Road has a living area on the northern elevation. This window is not impacted and sufficient solar access will remain. There is a kitchen window on the western elevation that will be overshadowed by the proposal. It should be noted, a boarding house proposal of a similar building envelope is currently under assessment by Council on this site.</p> <p>Due to the orientation of the site, there will be some overshadowing to the southern adjoining private open space area. #75 Waldron will continue to receive morning sun and #81 Waldron Road will obtain over three hours of afternoon sun.</p> <p>There is no evidence of existing solar infrastructure on the adjoining allotments to the subject site.</p>	
<p>Visual Privacy</p> <p>Screening required to:</p> <ul style="list-style-type: none"> • Windows looking to neighboring living area or bedrooms; and • Windows looking into neighboring POS 	<p>Only window that directly aligns to the living room of #81 Waldron Road is the boarding house mangers room. There is approximately 12 metres separation with a 7.38 metres setback on the subject allotment and 4.6m on the neighboring.</p> <p>Council's controls do not require screening from a bedroom overlooking POS. Boarding rooms are considered bedrooms in this instance.</p>	Yes.
<p>Building Design</p> <p>Proposal must comply with SEPP 65 and associated guidelines</p>	<p>In accordance with Clause 4(4) of <i>SEPP 65</i> – the application of this Policy does not apply to boarding houses. The Apartment Design Guide has been used to inform the proposed setback variation.</p>	N/A
Boarding house	a) Kitchen / communal room provided on ground floor	Yes.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
a) 5 or more boarding house room requires a communal living room. b) Boarding rooms must have a minimum GFA of 12m ² for single lodgings or 16m ² in any other case. c) Maximum GFA for a boarding room is 25 m ² ; d) No rooms are to accommodate more than 2 persons e) Bathroom and kitchen facilities provided within the development. f) Boarding houses with 20 or more lodges must be provide with a manager; g) One motorbike and one bicycle space per 5 boarding rooms.	b) Smallest boarding rooms are 16m ² plus the area allocated to kitchen and bathroom facilities. c) The largest rooms proposed are 24m ² plus the areas allocated for kitchen and bathroom facilities. d) Maximum size is to accommodate 2 people (double rooms). e) Bathroom and kitchen facilities are provided internal to each boarding room. f) The proposal includes the provision of a boarding house manager and the relevant facilities associated (such as accommodation provided on ground floor). g) Provided within carpark area.	
Roof Maximum 35 degrees with lifts etc. to be integrated in roof.	Flat roof design with lift overrun within the Council's height limit.	Yes.
Demolition All structures to be demolished on the allotment prior to works commencing.	The proposal includes the demolition of two (2) cottages and all ancillary structures.	Yes.
Building Design (Car Parking) The design should ensure forward entry and exit of vehicles and location behind the front building line.	The proposal provides sufficient space to facilitate a forward entry and exit to the at grade park located to the rear of the site.	Yes.
Landscaping 45% of the primary frontage to be landscaped and a provision of a 75 litre tree within this space.	SEPP (ARH) 2009 overrides & only requires the front landscaping to be compatible with the streetscape.	SEPP overrides. Complies with SEPP.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
	The current streetscape is characterised by large setbacks and front fences. While the proposal is compatible with the existing streetscape, it is considered the proposal represents the desired future charter of the locality (i.e. reduced setbacks and landscaped front entry).	
Security Lots that share a boundary to a railway corridor require a minimum 1.5m setback to that boundary. This setback must include landscaping, including a planter bed, chain wire fence and hedging or the like.	The proposal has included a rear landscaped area. Sufficient space to accommodate the required fencing and appropriate landscaping.	Yes.
Neighborhood Shop (Note: Use of this space is not under consideration as part of this DA).		
Building Design A maximum one neighborhood shop is permitted per an allotment and must be located on the ground floor.	The current proposal only includes one (1) neighborhood shop and this is located on the ground floor with direct access and sightlines to Waldron Road.	Yes.
The development must achieve a high standard of architectural design and visual quality	The proposal includes different elements and finishes to ensure the whole building provides for visual interest.	Yes.
The building must provide for an active street frontage.	The primary ground level interaction to Waldron Road is via the neighbourhood shop to the east and the communal space on the western of the front facade. These provide for passive surveillance via large openable glass doors.	Yes.

Variation to side and rear setback:

The proposal presented before the Panel fails to comply with Clause 10.15, Part B1 – Residential Development, *Bankstown Development Control Plan 2015*, in regards to the minimum setback to the side and rear boundaries. This control allows for the setbacks to be a minimum setback of 4.5 metres subject to the average setback being 0.6 multiplied by the wall height.

The proposal fails this control in regards to the rear setback as an average setback of 7.67 metres is required (12.61 metre wall height x 0.6) and a proposed average rear setback of 3.4 metres. This a shortfall of 4.36 metres.

The western and eastern setbacks also fail this provision with a required average setback of 7.21 metres (12.02 metres wall height x 0.6). The proposal is setback an average of 4.75 metres and this is a shortfall of 2.46 metres.

An assessment of the merits of this non-compliance has been carefully considered and Council is of the view that there are grounds to support the variation as the proposed actual setbacks are compliant with the Apartment Design Guide requirements. This would be the guide informing the intended future built form and compliance with this would enable a consistent approach to the future building envelopes on Waldron Road, minimise any overshadowing impact this development would have on adjoining allotments and ensure adjoining sites are not sterilised or required to provide a disproportional distance of the required setback when developing in the future.

The Apartment Design Guide requires a 6 metre setback to habitable rooms and balconies from the side boundary and a 3 metre setback to non-habitable rooms from the side boundary for development up to 12 metres (4 storeys). The subject and adjoining sites are prescribed a 13 metre height limit in accordance with BLEP 2015 which limits future development to a maximum 4 storeys and the boarding rooms are classified as habitable rooms in this instance as the ADG defines a habitable room as '*a room used for normal domestic activities, and includes a bedroom, living room, lounge room...*'. The application before the Panel proposes setbacks of 4.5 metres and 6 metres on the eastern and western elevation. The component of the building wall setback 4.5 metres is to the north and southern end and has 1.6 metre high glass sill windows. While a strict application of the ADG in this case would require a 6 metre setback, the intent of this objective is to '*increase privacy without compromising access to light...*', as such the high sill window are considered to achieve the objective of the separation distance required. The remaining portion of the side setback is 6 metre thus complies with the ADG.

Part B5 – Parking

Section 2 of Part B5 of the DCP sets out the minimum car parking rates for a range of land uses, and includes a nominated rate of 1 space per 40m² floor area for '*shops*'. According to this rate, a total of 2 car parking spaces are required for the neighbourhood shop component (rounded up). The proposed development makes provision for these spaces. The DCP also provides a historic rate of 1 car space per 3 bedroom for '*boarding houses*'.

Council has adopted the parking rate for the boarding house component of the development to be 0.5 parking spaces for each boarding room. This is as informed by Clause 29 (2) (e) (ia) *SEPP (Affordable Rental Housing) 2009* which is the most updated and relevant car parking rate. This rate was recently revised (1 June 2018) by the State Government and it can be assumed this was a reflection of the current demand for boarding house developments as seen across the state. The State Government's intention to strictly enforce this rate is further supported by the absence of additional savings provisions for the amendment.

The proposal fails to provide the required parking for the boarding house component of the development as twenty five (25) car spaces would be required for exclusive use of the boarding room lodgers. Eleven (11) spaces have currently been allocated hence the proposal does not achieve the required amount of off-street car spaces. The deficiency of fourteen (14) spaces or 56% is considered to result in an unacceptable impact on the road network and safety in regards to on-street parking.

Part B11 – Tree Preservation Order

The vegetation sought to be removed on-site is not subject to this order. As such, consent is not required for its removal.

Planning agreements [section 4.15(1)(a)(iia)]

There are no planning agreements applicable to the proposed development.

The regulations [section 4.15(1)(a)(iv)]

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

The likely impacts of the development [section 4.15(1)(b)]

It has been demonstrated that the proposed development would have an unreasonable or unacceptable environmental impact on the surrounding locality. The non-compliance with the prevailing car parking rate for the development, would result in insufficient on-site parking to accommodate the demand created by the proposal. Subsequently, parking for the development would flow on street, resulting in an impact on the traffic flow and parking rates on Waldron Road.

Suitability of the site [section 4.15(1)(c)]

The site is not suitable for the development as currently proposed. While the proposed uses are permitted with consent in the R4 High Density Residential Zone, the proposal is not designed to respond appropriately the State Government's current rate of parking with particular regard to the flow on effects of insufficient onsite parking on Waldron Road.

Submissions [section 4.15(1)(d)]

The application was advertised and notified for a period of twenty one (21) days. Two (2) submissions were received and the below table provides a summary with comment:

Objector's Concern	Comment
Character of the neighbourhood <ul style="list-style-type: none"> • Height • Density 	The subject proposal is within the current planning framework in regards to height (13m) and density (1.5:1 as afforded an additional 0.5:1 under SEPP (ARH) 2009 and 1: 1 FSR under BLEP 2015).

	The future desired character as determined by Council's controls is of a greater density and urban typology than that generally current existing within the locality (or the current character of the neighbourhood).
Traffic	The proposal fails to comply with Council's adopted rate for on-site parking provision. Subsequently, it is considered the proposal would have a negative impact on traffic with the reliance for on-street parking.
Construction noise	If the application was to be approved, Council would seek to impose strict conditions on consent in regards to construction hours. This matter would need to be managed by the nominated certifier while works are carried out.
Parking	The proposal does not comply with the current rate of parking deemed to be acceptable and there is a deficiency of fourteen (14) spaces of the required twenty five (25). This is explored in an earlier section of this report.
Management	The application was accompanied by a plan of management outlining the details of operation.

The public interest [section 4.15(1)(e)]

Having regard to the matters discussed in this assessment report, it is considered that the proposed development would not be within the public's interest.

CONCLUSION

DA-840/2017 has been assessed according to the relevant provisions of *State Environmental Planning Policy (Infrastructure) 2007*, *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*, *Bankstown Local Environmental Plan 2015*, and *Bankstown Development Control Plan 2015*.

The development as currently proposed does not provide for an acceptable outcome for the Chester Hill Village locality and it is considered the proposed deficiency in the provision of car parking onsite would set an undesirable precedent for future development. This is in particular regard for an area only just beginning a stage of urban renewal and revitalisation.