

ITEM	350 Hume Highway, Bankstown
	Demolition of existing structures, construction of 290 residential units, commercial floor space, associated basement car parking, extension to Kearns Lane, and associated landscaping and civil works
FILE	DA-965/2014 (JRPP Ref. 2014SYW141)
ZONING	3(c) - Business - Enterprise
DATE OF LODGEMENT	11 September 2014
APPLICANT	Chanine Design Pty Ltd
OWNERS	C N Swadling and R Gattone and D P Gattone and P A Gattone and G A Attard and P Screpis
ESTIMATED VALUE	\$69 million
SITE AREA	11,722m²
AUTHOR	Development Services

SUMMARY REPORT

This matter is reported to the Sydney West Joint Regional Planning Panel in accordance with the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*. The proposed development has an estimated value of \$69 million and exceeds the capital investment threshold for '*general development*'.

DA-965/2014 proposes to demolish existing structures and remove existing trees, and construct a residential flat development containing 290 apartments across 3 separate buildings with ground floor commercial space fronting Hume Highway, basement carparking, civil and landscaping works, and the extension of Kearns Lane as a public road.

The Development Application has been assessed against *SEPP 55*, *SEPP 65*, *SEPP (Affordable Rental Housing) 2009*, *SEPP (Infrastructure) 2007*, *Bankstown LEP 2001* and *Part D5 of Bankstown DCP 2005*. The application fails to comply with controls relating to building height, setbacks, and building separation, as well as minor departures concerning solar access and internal building layouts. Despite these non-compliances, the proposed development is considered to represent an appropriate built form for a key site in the Hume Highway corridor.

The proposal was initially advertised and notified for 21 days. A total of 17 objections were received during this period, including a number of pro-forma letters. The application was renotified following the lodgement of amended plans and 3 additional objections were received. The objections made against the proposed development raise concerns relating to density and built form, traffic and parking, privacy and amenity impacts, safety, access to open space, and property values.

POLICY IMPACT

This matter has no direct policy implications. The proposed variations are appropriate in the context of the site, and would not set any undesirable precedent.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that:

- A – The objection lodged pursuant to *State Environmental Planning Policy No. 1 – Development Standards* to the maximum building heights prescribed by Clause 36A of the *Bankstown Local Environmental Plan 2001* be supported; and
- B – The application be approved, subject to the attached conditions.

DA-965/2014 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 350 Hume Highway, Bankstown. It has an area of 11,722m², with frontages of 104m to Hume Highway and 62m to George Street. The site contains an existing warehouse/showroom that is occupied by a building supply business. There is a primary vehicle access point at the eastern end of the Hume Highway frontage, and a secondary access point from George Street which connects to an at-grade hard stand parking area. The George Street end of the site is vacant.



Development consent was granted in May 2013 for the redevelopment of this site under a previous DA-420/2012 (2012SYW066). This approval was for a mixed-use development with similar footprint and building envelopes. The most notable difference between the current proposal and the previous approval concerns the number of apartments (290 compared to 182) and the floor space ratio (2.21:1 compared to 1.69:1). To achieve this higher yield, the current proposal seeks to take advantage of the provisions contained in *SEPP (Affordable Rental Housing) 2009*.

Development surrounding the site comprises a mix of residential and commercial uses. Residential development is located west and north of the site, and is predominantly detached dwellings except for some villa units north of the site on George Street. Commercial developments and a licensed premises (Three Swallows Hotel) are located east of the site, as well as a group of local shops. South of the site, across Hume Highway, is a school, a fire station, some detached dwellings, and a site that is currently under development for the construction of 100 residential units across 5 separate buildings up to 5 storeys high. There are a number of heritage-listed buildings in the vicinity of the site, including 2 former corner shops opposite the site at the Hume Highway and Meredith Street / The Boulevard intersection.

PROPOSED DEVELOPMENT

DA-965/2014 proposes the following works:

- Demolition of existing buildings and removal of existing trees.
- Construction of a 3-storey building fronting George Street containing 25 apartments.
- Construction of a 6- and 7-storey 'Central' building containing 110 apartments, with basement parking for 187 cars.
- Construction of a 7-storey building fronting Hume Highway containing 155 apartments and a 2,364m² commercial space, with at-grade and basement parking for 252 cars.
- Extension of Kearns Lane to the eastern property boundary as a public road.
- Landscaping and civil works.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 79C(1)(a)(i)]

State Environmental Planning Policy (Affordable Rental Housing) 2009

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

'accessible area' means land that is within 400m 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.

The subject site has access to a bus stop that meets the required services (Bankstown to Parramatta route 907). Accordingly Division 1 of the SEPP applies. Compliance with the relevant standards is outlined in the table below.

STANDARD	PROPOSED	COMPLIES?
Floor space ratio Up to 2.25:1 is permitted if 50% of the development is proposed for 'affordable housing'.	2.21:1 (hence 46% of units must be for 'affordable housing').	Yes.
Site area Minimum 450m ² .	11,722m ²	Yes.
Landscaped area Min. 30% of the site area.	30%	Yes.

Deep soil zones Not less than 15% of the site area with a minimum 3m dimension. At least 2/3 located at the rear of the site.	15% deep soil with a width of 3m, of which at least 2/3 is located toward the 'rear' of the site (i.e. behind the respective building lines).	Yes.
Solar access Living rooms and private open spaces for a minimum 70% dwellings require 3 hours direct sunlight between 9am and 3pm at mid-winter.	40% of units receive 3hrs direct solar access between 9am – 3pm midwinter.	No. However this increases to 65% if solar access until 4pm is taken into account, which is appropriate given the site's orientation and the design response which directs a number of units in the 'core' of the Central building to the north-west. These units would still benefit from post-midday and afternoon sun, and would still have sufficient daylight access to meet the objectives of the Code. The percentage is further increased to 72% if upper floor units with skylights are included. While the Code discourages the use of skylights as a primary source of daylight, the applicant is relying on advice from a solar access expert that skylights are an acceptable means of achieving sunlight.
Parking 1 bed – min. 0.5 space/unit 2 bed – min. 1 space/unit 3 bed – min. 1.5 space/unit TOTAL – 263 spaces	439 spaces.	Yes.
Dwelling size 1 bed – min. 50m ² 2 bed – min. 70m ² 3 bed – min. 95m ²	1 bed – min. 50m ² 2 bed – min. 70m ² 3 bed – min. 94m²	No. A condition of consent is recommended to ensure compliance with this control is achieved.
Affordable housing Must be used as affordable housing for 10 years.	The applicant has provided documentation confirming that a registered community housing provider (Evolve Housing) has agreed to manage the 'affordable housing' component of the development for 10 years according to the SEPP requirements.	Yes.

Division 1 of the SEPP also requires that the design of the proposed development be compatible with the character of the local area. The surrounding locality comprises a mix of land uses, with a commercial core and residential dwellings toward the fringe. Given the framework set out in the relevant planning controls, it is an area that is expected to experience a transition to higher densities. The proposed development is therefore compatible with the likely future character, and would ensure an appropriate amenity outcome for existing, neighbouring residential dwellings.

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

SEPP 65 applies to the proposed development, and an assessment against the Design Quality Principles and Residential Flat Design Code (RFDC) has been undertaken. The proposal is consistent with the Design Quality Principles and responds appropriately to the site's context. Moreover, the application generally conforms with the key 'rules of thumb' contained in the Residential Flat Design Code, as illustrated in the table below.

'RULE OF THUMB'	PROPOSED	COMPLIES?
Building depth 10m – 18m is appropriate. If greater than 18m then good solar access and ventilation must be achieved.	Average building depth of the Hume Highway and Central buildings is in excess of 18m.	Yes. The buildings have a northern aspect and are articulated, with recessed elements of the building having a depth less than 18m.
Building separation 12m separation between buildings over 3 storeys and up to 4 storeys. 18m separation between buildings over 4 storeys and up to 8 storeys.	35m separation between the Central building and the Hume Highway building. 6m separation between the Central building and the George Street building.	No. The separation between the George Street and Central buildings does not comply. However there are not expected to be any unreasonable or adverse privacy impacts as a result of the reduced setback. This matter is discussed later in this report, in response to the Bankstown DCP requirements.
Communal open space 25% – 30% of the site area is to be communal open space.	28% of the site is designated as communal open space, with areas at ground level (21%) as well as rooftop communal terraces above the Central and Hume Highway buildings (7%).	Yes. The development site is also located directly opposite a public park (Graf Park), which is on the northern side of George Street.
Apartment layout Single aspect apartments should be no more than 8m from a window. Back of kitchen no more than 8m from a window.	The depth of single aspect apartments is generally 9m. The back of only 33% of kitchens are within 8m of a window, however 100% are within 9m.	Yes. Non-conforming (i.e. 'deepest') parts of affected apartments contain the entry areas and no amenity loss is expected. The back of non-conforming kitchens are within 9m of a window and still achieve the amenity intent of the code.

Apartment size 1 bed – min. 50m ² 2 bed – min. 70m ² 3 bed – min. 95m ²	1 bed – min. 50m ² 2 bed – min. 70m ² 3 bed – min. 94m²	No. A condition of consent is recommended to ensure compliance with this control is achieved.
Balcony depth Min. 2m depth to primary balconies.	All primary balconies have minimum 2m depth.	Yes.
Floor to ceiling heights Min. 3.3m ground floor and 2.7m for other floors. If variation is sought then satisfactory daylight access must be demonstrated.	Floor-to-ceiling heights are 2.7m.	Yes. Majority of units are oriented north and have satisfactory daylight access.
Internal circulation Max. 8 units accessed from a single corridor.	16 apartments accessed from a single corridor in the Central building and up to 13 apartments accessed from a single corridor in the Hume Highway building. Upper floor of the George Street building complies, however the ground floor corridor provides access to 17 apartments .	No. However the lifts in the Central building are arranged so that they service 8 units each, and the lifts in the Hume Highway building service up to 7 units each. Corridors in each of these buildings offer clear lines of sight and provide safe and efficient resident access. Although the ground floor of the George Street building does not strictly comply, 9 of these apartments are provided with their own private entry from the street.
Solar access 70% of units should receive 3hrs solar access between 9am – 3pm midwinter.	40% of units receive 3hrs direct solar access between 9am – 3pm midwinter.	No. However this increases to 65% if solar access until 4pm is taken into account, which is appropriate given the site's orientation and the design response which directs a number of units in the 'core' of the Central building to the north-west. These units would still benefit from post-midday and afternoon sun, and would still have sufficient daylight access to meet the objectives of the Code. The percentage is further increased to 72% if upper floor units with skylights are included. While the Code discourages the use of skylights as a primary source of daylight, the applicant is relying on advice from a solar access expert that skylights are an acceptable means of achieving sunlight.
Natural ventilation 60% of units to be naturally ventilated. 25% of kitchens to have access to natural ventilation.	82% units are naturally cross-ventilated. 28% of kitchens have access to natural ventilation.	Yes.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires Council to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works. The Hume Highway end of the development site contains a warehouse building and has a history of occupation by non-residential uses (including suspected use as a service station in the late 1950's and early 1960's). At the George Street end of the development site is a vacant, grassed area with a stand of trees separating it from a paved, at-grade carpark.

Detailed site investigations have been undertaken to determine whether the site is suitable for the proposed development. Investigations carried out for the previous DA-420/2012 determined that widespread or extensive contamination was not likely, and the site can be made suitable for residential use. Further investigations undertaken for the current DA, which focus primarily on the unsealed portion of the site toward George Street, conclude that:

- *Past and current activities on the site were not considered to have impacted soil or groundwater in excess of the adopted environmental investigation levels; and*
- *Widespread contamination was not identified at the site. Concentrations exceeding the human health based SILs for asbestos (BH6) was limited to the fill material found at the central portion of the site. It is concluded that all fill material within the site, including those impacted by asbestos, must be excavated and disposed of off-site in accordance with the relevant waste classification guidelines to allow the site to be made suitable for the proposed development.*

According to these investigations, the site can be made suitable for mixed commercial and residential use, subject to certain recommendations concerning the preparation of a remedial action plan, further groundwater sampling, classification and removal of impacted soil and any fill material to be imported to the site, and site validation (including all excavated areas). It is recommended that these requirements be imposed via conditions of consent, included at Attachment B to this report.

State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of SEPP (Infrastructure) lists types of developments that are to be referred to Roads and Maritime Services (RMS) due to their size or capacity and the potential for impacts on the local road network (including classified roads). The proposed development exceeds the thresholds listed in Schedule 3 of the SEPP and has direct access to Hume Highway which is a classified road. The proposal was accordingly referred to RMS for comment.

RMS have reviewed the proposed development and advise that the proposed vehicular crossing on Hume Highway is not supported according to Section 138 of the Roads Act, 1993. However Section 138 applies only where there is a new connection to a classified road. Given that the Hume Highway vehicle crossing is existing, and given that the nature of its use is not proposed to change (i.e. to service non-residential / commercial premises and for loading and servicing), concurrence from RMS under the Roads Act is not technically required.

Clause 104 of SEPP (Infrastructure) requires that a consent authority must take into consideration any submission that the RMS provides. While the RMS' submission is noted, it would be onerous to prohibit vehicle access to Hume Highway where the existing arrangements are not proposed to be intensified. Moreover, retention of the existing Hume Highway vehicle access for non-residential development at this site was endorsed and supported by RMS under the previous DA-420/2012.

Council's Traffic Engineers have reviewed the proposed development. No objection has been raised to retention of the Hume Highway access, subject to certain requirements relating to pedestrian sight distances and garbage truck turning paths. Both matters can be adequately addressed via conditions of consent.

State Environmental Planning Policy (State and Regional Development) 2011

SEPP (State and Regional Development) states that a regional panel may exercise the consent authority functions of the council, for the determination of applications for development of a class or description included in Schedule 4A of the EP&A Act.

Schedule 4A of the Act includes '*general development that has a capital investment value of more than \$20 million*'. The development has a value of \$69 million and accordingly the development application is reported to the Sydney West JRPP for determination.

Bankstown Local Environmental Plan 2015

Bankstown LEP 2015 was gazetted on 5 March 2015. Clause 1.8A of the BLEP 2015 states:

'If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.'

Accordingly, the BLEP 2015 does not apply to the subject development application. The relevant planning instrument is the Bankstown LEP 2001 which is discussed below.

Bankstown Local Environmental Plan 2001

The following clauses of the Bankstown LEP 2001 were taken into consideration:

- *Clause 2 Objectives of this plan*

The proposed development is consistent with the objectives of the Bankstown LEP 2001. It is designed to achieve good urban design and concentrates a high density residential development in a location that is accessible to the Bankstown CBD. While representing the emerging form of development contemplated by Council's planning policies, it remains compatible with the suburban character of the locality and would not have any unreasonable impact on neighbouring developments.

▪ *Clause 11 Development which is allowed or prohibited within a zone*

The table to Clause 11 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 not permitted on land zoned 3(c). There are additional provisions, however, under Clauses 36A and 50A of the LEP, which allow consent to be granted for the proposed '*residential flat building*' at the subject site, despite its 3(c) zoning. These special provisions have been met, and are discussed later in this report.

With respect to the proposed ground floor showrooms fronting Hume Highway, the table to Clause 11 shows that '*bulky goods salesrooms/showrooms*' and '*warehouses*' are both permitted in the 3(c) zone.

▪ *Clause 20 Trees*

It is proposed to remove all existing trees from the development site. The majority of trees proposed for removal have been previously reported to be in poor or average health and condition, or are species having low environmental significance. The proposed tree removal is generally consistent with that approved under the previous DA-420/2012, which was subject to protection measures for trees to be retained on the neighbouring sites and supervision during works by a qualified arborist. It is recommended that these same measures be maintained as conditions of consent, which are included at Attachment B to this report.

▪ *Clause 23 Development adjacent to residential zones*

The development site adjoins land to the west that is zoned 2(b) – Residential. There must therefore be a consideration of the likely impacts of the proposal on this adjoining land with respect to building compatibility, noise and amenity impacts, overshadowing, privacy, and traffic and parking. These matters are addressed elsewhere in this report, and it is concluded that the proposed development would not have any such unreasonable impact on the adjoining land.

▪ *Clause 24 Airports*

The development site is subject to Bankstown Airport Limited's (BAL) obstacle limitation surface plan, which prescribes a maximum building height of 15.24m. The proposed development exceeds this height and was referred to BAL for concurrence.

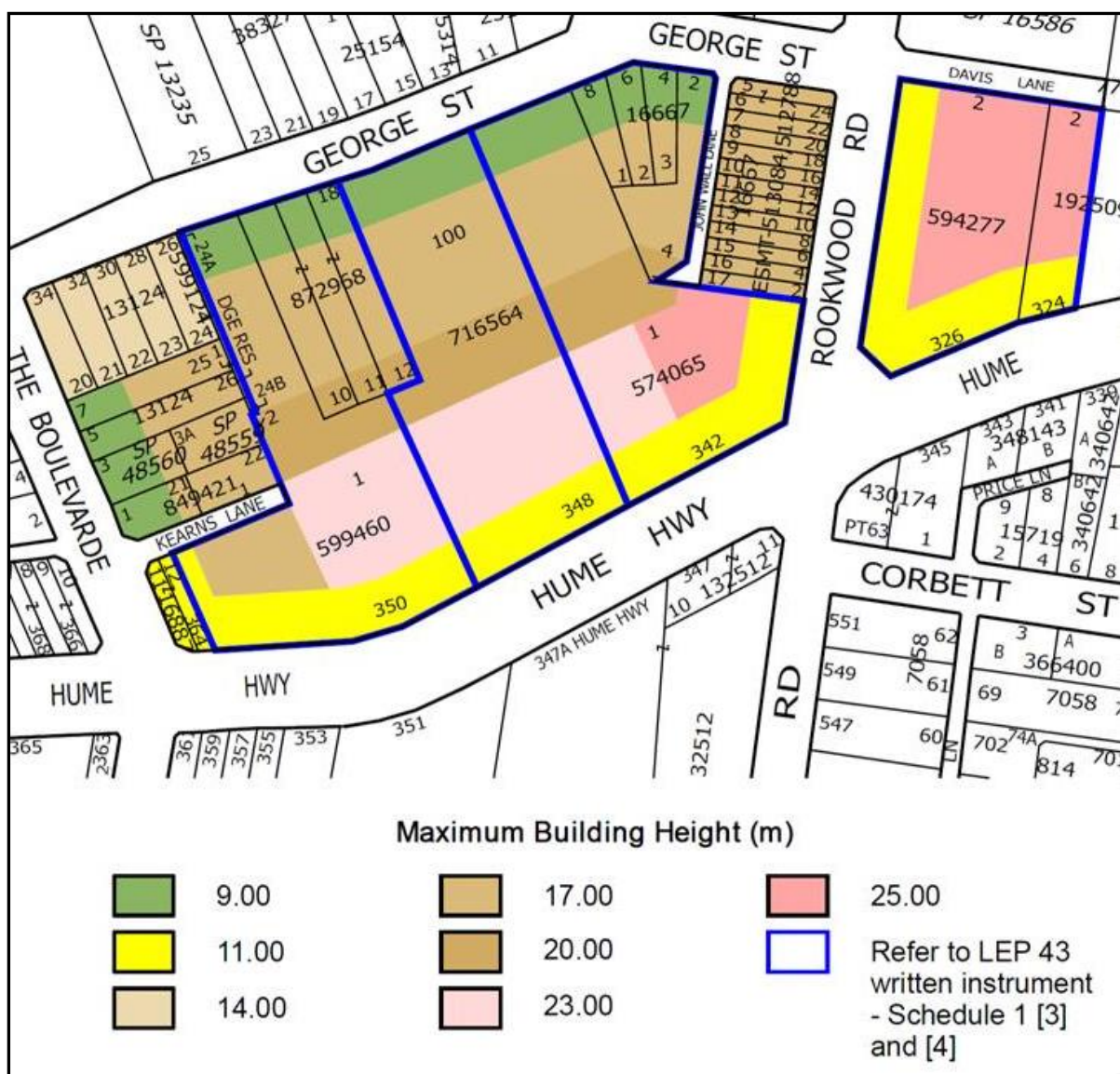
Because the proposed building is above 51m AHD (the lift overrun on the Hume Highway building reaches a proposed height of 83.6m AHD), the assessment by BAL must be supplied to the Civil Aviation Safety Authority (CASA) for review, and then to the Minister for Infrastructure and Transport (or their delegate) for final approval. A formal response from BAL (and CASA) is still yet to be received. To enable the development assessment to proceed, and to provide some degree of certainty around the balance of the matters under assessment, it would be appropriate to require resolution of this matter as a condition of consent. This approach is consistent with that taken for the previous DA-420/2012.

▪ *Clause 30 Floor space ratios*

The BLEP prescribes a maximum floor space ratio of 1.75:1 for this site. The proposed development has a gross floor area of 24,578m² over a site area of 11,722m². This equates to a floor space ratio of 2.21:1 and fails the BLEP control. However, as discussed earlier in this report, the provisions of ARHSEPP 2009 prevail over those contained in the BLEP 2001. The proposed floor space ratio complies with the provisions of the SEPP.

▪ *Clause 36A Special requirements for particular sites*

Clause 36A of the BLEP applies to the proposed development and states that building heights must not exceed those shown on the accompanying building height map. A copy of the building height map is shown below.



The proposed development does not comply with the maximum building heights allowed by the BLEP. The extent of proposed non-compliance is outlined in the table below.

BUILDING ELEMENT	ALLOWED LEP HEIGHT	ALLOWED RL HEIGHT	PROPOSED HEIGHT	EXTENT OF PROPOSED COMPLIANCE
Hume Hwy – western end	11m	69.4	79.8 (21.4m)	This is the lowest section of the height plane and affects a narrow, 10m strip at the western end of the site. The upper three-and-a-half floors of the proposed building exceed the maximum 11m height. However such a narrow section of the building more than 3 storeys lower than the balance of this built form would present poorly to the Hume Highway corridor.
Hume Hwy – middle	17m	75.2	79.8 (21.6m)	The upper one-and-a-half floors of the proposed building exceed the maximum 17m height at this point. However the additional height does not adversely increase the extent of overshadowing from the Hume Highway building, and ensures that the development presents a consistent, balanced built form to the Hume Highway corridor.
Hume Hwy – eastern end	23m	81.0	79.8 (21.8m)	The proposed RL of the roof at this part of the Hume Highway building is 79.8, which is more than 1m below the maximum building height.
Central – southern end	20m	75.0	75.9 (20.9m)	The proposed RL of the roof at this part of the Central building is 75.9, which is less than 1m above the maximum building height.
Central – northern end	17m	71.3	75.7 (21.4m)	The proposed RL of the roof at this part of the Central building is 75.7, meaning the upper one-and-a-half floors of the building exceed the maximum building height. However the additional height does not adversely impact the overall amenity outcome for dwellings within the development, nor those neighbouring the site to the west.
George Street – western end	9m	63.5	63.5 (9.0m)	The proposed RL of the roof of the eastern part of the George Street building is 63.5, meaning this part of the building sits at the maximum 9m building height.
George Street – eastern end	9m	64.9	63.9 (8.0m)	The proposed RL of the roof of the western part of the George Street building is 63.9, meaning this part of the building sits below the maximum 9m building height.

The greatest extent of the proposed height non-compliance occurs in the Hume Highway building. The maximum height plane for this building steps down from the eastern boundary to the western end of the development site, encouraging a staggered built form. The proposed development maintains a consistent built form and roof plane across the Hume Highway frontage, and absorbs a considerable portion of the proposed building mass in a location that has the least potential to impact on the locality by way of overshadowing and bulk and scale.

It is noted that the George Street building, which is located in the nearest vicinity to neighbouring residential development, complies with the maximum 9m height limit set for the northern edge of the site. The concentration of a greater portion of the development at the least sensitive part of the development site (i.e. to the south, adjacent Hume Highway) is considered to be an appropriate design response for an infill site that adjoins detached residential dwellings.

The proposed Central building exceeds the maximum building height, however the non-compliance is generally limited to the upper one-and-a-half storeys. When compared to a centrally-located building that complies with the maximum building heights, the proposed scheme would not result in any unreasonable additional overshadowing or privacy impacts to neighbouring properties.

Pursuant to *State Environmental Planning Policy No. 1 – Development Standards* the applicant has lodged an objection to the maximum height limits prescribed by the BLEP. The objection submits that compliance with the maximum building heights would be unreasonable or unnecessary in this case for reasons including the following:

- *The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.*
- *The primary portion of the height non-compliance occurs along the Hume Highway where it has the least potential impact on amenity of adjoining properties.*
- *The proposed building height reinforces the key road frontage of the Hume Highway.*
- *The proposal incorporates a high quality design with articulated facades to its street frontages ... and a mixture of quality external finishes and materials. The proposal will contribute positively to the streetscape and visual amenity of the area.*
- *Non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors.*

The applicant's SEPP 1 objection is considered to be well-founded and is supported. The proposed development provides an appropriate arrangement of building forms that accommodate floor space allowed under the relevant environmental planning instrument, without significantly compromising the amenity of the surrounding locality. The bulk of the non-conforming building height is concentrated at the Hume Highway end of the development, which assists in defining this main road corridor. This also aligns the bulk of the development with the neighbouring commercial developments to the east, rather than the detached residential dwellings located north and west of the development site.

Finally, it is noted that the development proposed under this current application is generally lower than the overall height of the development approved under the previous DA-420/2012. While there is an exception with the George Street building, the highest part of the Hume Highway building is 21.8m (compared to 24.05m under DA-420/2012) and the highest part of the Central building is 21.4m (compared to 23.87m under DA-420/2012).

▪ *Clause 36C Development along arterial roads*

Clause 36C limits vehicle access to arterial roads and requires an assessment of likely road safety and operational impacts. It also discourages noise-sensitive development types (which include residential dwellings) unless appropriate noise mitigation measures are included.

The subject site has existing driveway access at the eastern end of the Hume Highway frontage. It is proposed to retain this access point for the commercial/showroom elements of the development, for garbage and waste collection, and for visitor parking. Residential access for the Hume Highway building is proposed via Kearns Lane, and access to the George Street and Central buildings is proposed via George Street. This arrangement has been reviewed by Council's Traffic Engineer and can be endorsed subject to conditions.

The applicant has submitted an acoustic report which examines potential noise impacts from existing and proposed road traffic noise. The report concludes that, subject to recommended construction treatments, internal noise levels will comply with the relevant noise criteria. However to ensure compliance it would be appropriate to include a condition on any development consent that ensures that the maximum allowable noise levels under the SEPP (Infrastructure) are achieved. This condition is included at Attachment B to this report.

▪ *Clause 38 Development in the vicinity of heritage items*

There are a number of heritage items in the vicinity of the development site that are listed in the BLEP 2001. These items include:

- 347A Hume Highway (St. Felix cemetery)
- 361 Hume Highway (Corner shop, 1919)
- 363 Hume Highway (Corner shop, 1919)
- 76 Powell Street (House, formerly a convent and police station)

Clause 38 of the BLEP requires consideration of the likely effect of the proposed development on these items, and on their setting. Council's Heritage Officer reviewed the development proposed under the previous DA-420/2012 and provided the following comments:

"The heritage buildings present in the vicinity are located at the property Nos. 363 and 361 Hume Highway in Yagoona, on the opposite side of the proposed development. The separation distance between the proposed development and the heritage buildings is the width of the Hume highway plus the setback maintained for the proposed development, which in this case is an excess of 30m.

The view from 'The Boulevard' towards the heritage items should have no adverse visual impact at all, as the proposed development is on the opposite side of the Hume Highway. Due to the setback achieved for the proposed development and the presence of a corner lot at the property No. 364 Hume Highway, the view from Meredith Street to Hume Highway should have a minimum visual impact on the architectural presentation of the heritage items to the locality."

The proposed development involves a comparable building envelope to that approved under the previous DA-420/2012, and maintains the same setback to the Hume Highway. Accordingly, the comments from Council's Heritage Officer remain valid.

▪ *Clause 48 Objectives of the business zones*

The proposed development is consistent with the objectives of the 3(c) – Business – Enterprise zone. It is designed to achieve a high standard of building design and provides appropriate landscaping. It ensures there would be no unreasonable impacts on the amenity of the surrounding mixed-use locality, and maintains appropriate vehicle access to the development site. Provision is also made for commercial floor space to ensure that a business and employment focus is retained along the Hume Highway corridor.

▪ *Clause 50A Development in Zone 3(c)*

As noted earlier in this report, Clause 11 of the BLEP prohibits '*residential flat buildings*' at the subject site. However Clause 50A states that despite this prohibition, consent may be granted to development for the purposes of '*residential flat buildings*' provided the allotment has an area of not less than 5,000sq.m, dwellings are set back a minimum 20m from the Hume Highway boundary, and any non-residential development would not detract from the amenity of any dwellings on the allotment.

The development site has an area of 11,722m² and dwellings within the proposed Hume Highway building comply with the required 20m setback. The proposed non-residential component of the development is limited to a ground floor showroom space, which would likely accommodate a 'bulky goods' type use and would therefore not have any significant amenity impact on dwellings within the development.

Further to the above, consent cannot be granted to development in zone 3(c) unless it achieves high quality architectural and landscape outcomes that contribute to the character and appearance of the locality and arterial road corridor. The proposal presents a contemporary façade and is articulated to ensure that the bulk and scale of the proposed buildings is appropriately balanced. Each of the buildings respond appropriately to the SEPP 65 guidelines and the overall built form generally follows that contemplated in Council's planning controls for the site. Vehicle access to the development has been arranged to avoid Hume Highway where practicable.

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

There are no draft EPI's applicable to the proposal. It should be noted, however, that at the time this current DA was lodged, the BLEP 2015 was in 'draft' form. The proposed development is not inconsistent with the provisions of the draft instrument.

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

The following table provides a summary of the development application against the controls contained in Part D5 of *Bankstown Development Control Plan 2005*.

STANDARD	PROPOSED	BDCP 2005 PART D5	
		REQUIRED	COMPLY?
Lot consolidation	All lots within the development site (shown edged heavy black in the DCP) have already been consolidated.	The DCP provisions only apply if all lots are consolidated and there would be no adverse effect on other land in the vicinity.	Yes.
Building height	3 storeys for the George Street building. 6 and 7 storeys for the Central building. 7 storeys for the Hume Highway building.	2 storeys for the George Street building. 4 and 5 storeys for the Central building. 2, 4, 5 and 6 storeys for the Hume Highway building.	No. No. No.
Hume Highway buffer	5m landscape buffer to Hume Highway.	A development must provide a min. 5m wide landscape buffer zone to Hume Highway to enhance the Remembrance Driveway corridor.	Yes.
George Street buffer	3m landscape buffer to George Street.	A minimum 2m buffer is to be provided to George Street.	Yes.
Hume Highway setbacks	20m dwelling setback to Hume Highway. 6.8m commercial setback to Hume Highway	A dwelling must be set back 20m. A business development must be set back 5m.	Yes. Yes.
Other setbacks	4m setback to George Street. 17.4m to the Central building. 7.8m to the George Street building. 3m to the eastern boundary.	5m to George Street. 17m to western boundary. 12m separation to future buildings on adjoining site to the east.	No. No. No.
Building separation	Minimum 6m between balconies and 7m between building walls.	12m separation between George Street building and Central building.	No.
Solar access	By mid-morning, shadows cast by the proposed development only fall within the development site itself, over Hume Highway, and over the neighbouring commercial properties.	Must provide appropriate solar access to neighbouring land within Zone 2(b) – Residential.	Yes.
Vehicle access	Access to the George Street and Central buildings is proposed from George Street, and access to the residential component of the Hume Highway building is proposed via Kearns Lane.	Vehicle access may be permitted from George Street and Kearns Lane.	Yes.
Kearns Lane extension	It is proposed to extend Kearns Lane to the eastern property boundary.	The development must create a shared rear lane for vehicle access and servicing purposes.	Yes.

Building Height

The DCP includes a plan that illustrates maximum building heights, and minimum setbacks, for all buildings within the development site (as well as future buildings on neighbouring properties). The building heights shown on this plan are expressed in storey limits. These storey limits are inconsistent with the maximum building heights shown in the BLEP height map (included earlier in this report) which are expressed in metres above natural ground level. For example, the Hume Highway building is limited under the DCP to 5 and 6 storeys, yet under the LEP a height of 23m is allowed (which equates to between 3.8m and 4.6m per storey). Further, the Central building is limited under the DCP to 4 and 5 storeys, yet under the LEP heights of 17m and 20m are allowed (approximately 4m per storey).

The proposed development still takes the same general form as that illustrated in the DCP, despite breaching the maximum storey limits. Because the provisions of an environmental planning instrument should be preferred over those contained in a DCP, it would be appropriate to allow the LEP height provisions to prevail. An assessment of the proposal against the maximum height limits prescribed by the LEP is provided earlier in this report, which concludes that the proposed heights are appropriate in the context of the site.

Setbacks

The DCP plan referred to above prescribes minimum setbacks to the boundaries of the development site. The proposed development does not comply with these setbacks in 3 separate locations.

The proposed setback of the George Street building to the western boundary is 9.3m at its closest point (up to 10.2m at its furthest point). The DCP requires a 17m setback. While the proposed setback does not comply, this is a stand-alone building element that would not have any greater visual or overshadowing impact on neighbouring properties than a typical 2-storey dwelling. A reduced setback at this part of the site is therefore supportable.

The minimum setback to the eastern boundary is not specified, however the DCP plan shows a 12m building separation to future development on the eastern adjoining property (which is currently an open car parking area). Assuming this separation is evenly split on both sides of the boundary, a minimum setback of 6m would be required. The proposed setback to the George Street building is 3m at its closest point. With a side profile only three storeys in height, this setback is deemed acceptable. It is also noted that a reduced setback and separation at the George Street frontage would promote a continuous streetscape without an extended break in building form.

The proposed setback to the Central building varies between 3m – 6m to the building wall, and 3m to the outer edge of balconies. This building alignment would not impose an onerous setback on any future 'infill' development on the adjoining site No. 348 Hume Highway. In fact, plans for the redevelopment of this adjoining site are currently under assessment (JRPP Ref. 2014SYW152). The plans propose a similar building arrangement and a separation between the proposed Central buildings of at least 12.5m.

Building separation

The DCP plan prescribes a minimum separation of 12m between the George Street building and the Central building. The proposed development provides a separation of between 6m– 7.5m between building walls, and does not comply. At ground level, potential privacy impacts can be managed through the landscape treatment of the terrace and garden areas located between the buildings. On the upper levels, the Central building presents only 2 small living area windows, and a bathroom window, to the George Street building. The living area windows are ‘secondary’ kitchen and dining windows and can be screened or made obscure in order to prevent direct overlooking. The same measures can be taken with the bathroom window.

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

There are no planning agreements applicable to the proposed development.

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

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

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

As discussed in this report, the proposed development is acceptable with regard to its likely environmental, social and economic impacts on the locality.

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

The proposed development is permitted with consent at the subject site. The floor space ratio control allowed by the ARHSEPP has been complied with, and the proposed variations to the maximum building heights and setbacks are acceptable in the context of the development. The proposal represents an appropriate built form, and operational and environmental matters have been adequately addressed.

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

The proposal was initially advertised and notified for 21 days. A total of 17 objections were received during this period, including a number of pro-forma letters. The application was renotified following the lodgement of amended plans and 3 additional objections were received. The objections made against the proposed development raise concerns relating to density and built form, traffic and parking, privacy and amenity impacts, safety, access to open space, and property values.

Density and Built Form

- *The proposed development will essentially create a new crowded community and will have a 'spill-over' effect on the surrounding neighbourhood which has always been low density.*
- *The high density nature of this proposed development will create a densely populated residential quarter right in the middle of this peaceful neighbourhood.*
- *The buffer zone and landscaped area for George Street has been removed. There is no 2-storey buffer and no landscaped green area to match the frontage of adjoining properties.*
- *The maximum number of floors when the site was rezoned was for 5-storeys and a buffer of 2-storeys to streetfronts, with a 5 metre green planted frontage to soften the impact on the street and residents on the opposite side.*
- *A minimum 20m setback must be provided to the western side of the central area to minimise visual intrusion and the overwhelming effect of the height of the building on adjoining dwellings facing The Boulevard.*
- *The 8-storey height of the central building is excessive. The proposed height is incompatible with the existing and desired future height of development within the site.*
- *There needs to be a height restriction of 3 levels only as this is a residential area.*
- *We have concerns that the proposal does not comply with the height, building separation and setback controls of the DCP.*
- *What are the details of how this development will be blended to maintain a feel of community on George Street (i.e. preventing this development from becoming an eyesore)?*

Comment:

The proposed development generally accords with the built form contemplated by the site specific DCP and LEP controls. While there are some non-compliances concerning the height and setback of some elements of the development, it is largely consistent with what is envisaged for the site. The George Street building does exceed the 2-storey limit prescribed by the DCP. However it sits within the 9m height limit allowed by the prevailing LEP and is of a scale that is compatible with existing and likely future development along George Street.

This is the first application lodged for the development of a site in this Rookwood Road Precinct. In isolation of other developments that are likely to occur on neighbouring sites, it could be viewed as out of character (in particular with regard to the neighbouring detached dwellings north and west of the site). However it is consistent with the desired future character illustrated in Council's planning policies, and would not compromise the ability of neighbouring sites to achieve the yield and density allowed under the ARHSEPP.

Earlier in this report it is discussed that the proposed development is appropriate in the context of the site. The form and finishes of the buildings are similarly appropriate, and are representative of a high quality, contemporary development in an urban setting.

Traffic and Parking

- *Access from Kearns Lane will not be easily accessible as all traffic coming from the city has no option but to access via George Street as there is no right turn into the Boulevard from Hume Highway. All residential vehicles will have to use only George Street for access. As a result, there will be a major traffic increase in George Street which will give rise to a range of issues, including difficulty for residents to enter or exit their driveway, noise, dust, and a dangerous road situation for children.*
- *This development does not suit this small area as it will create a very high volume of traffic flow and parking. George Street and The Boulevard are not big enough and cannot cope with a high number of residents.*
- *We have the hotel which has an extended license. We have also had changes to road directions in the last 24 months, and since the development of the estate bordering on Brunner Road and developments further up near Yagoona Station we have had nothing but traffic chaos on George Street.*
- *As George Street is only a small street with already heavy traffic the danger to people will be very real and the danger to children as they try to cross the road to go to Graf Park.*
- *We are concerned that the main vehicle access for the proposed development will be on George Street which will cause a chaotic traffic situation.*
- *On a busy weekend, there will be a major shortage of parking spaces. As a result, visitors and shoppers will have to rely on street parking, thus creating a more complicated road situation for vehicles and pedestrians.*
- *The proposed residential parking will not be enough as most households are likely to have 2 cars on average.*
- *The real impact is likely to occur on weekends when Graf Park is used for soccer or cricket. Parking around Graf Park is minimal and is all on street. Parents and children attending Graf Park will have to park further away.*

Comment:

A traffic and parking assessment has been undertaken by the applicant. This assessment examines existing traffic conditions and assesses the transport implications of the proposed development. Traffic flows on Hume Highway, The Boulevard, Meredith Street, Rookwood Road, George Street and Kearns Lane are analysed, as well as the operation of the intersections at Hume Highway / The Boulevard, Rookwood Road / George Street, The Boulevard / George Street, and The Boulevard / Kearns Lane.

The traffic and parking impact assessment was undertaken in September 2014, and was reviewed on the submission of amended plans in February 2015. The assessment is therefore taken to be an accurate indication of the present traffic situation in the locality of the development site.

The reporting forecasts that the proposed development would generate 108 and 160 vehicle trips per hour during weekday morning and afternoon peak hours respectively. These figures are derived using the traffic generation rates prescribed in the *RMS Guide to Traffic Generating Developments*.

When the additional traffic is assigned to the local road network, the report finds that the intersections around the site would continue to operate satisfactorily, with similar delays and level of service found under existing traffic conditions. The report concludes that the proposed development would not result in any adverse traffic impacts to the local road network.

The traffic and parking assessment has been reviewed by Council's Traffic Engineers. No objection has been raised in relation to the applicant's traffic modeling, and the proposal is supported subject to conditions that are included at Attachment B of this report.

With regard to car parking, the proposed development includes provision for 439 spaces, split across 2 separate basement car parks with 187 spaces for the George Street and Central buildings, and 252 spaces for the Hume Highway building. This parking provision exceeds the minimum requirements of the ARHSEPP and is therefore deemed appropriate.

Privacy

- *Fixed blade privacy louvres should be provided to the residential balconies of the Hume Highway building facing Kearns Lane, to minimise overlooking to private open spaces as well as to provide shielded areas for clothes drying.*

Comment:

The proposed development is an infill site, located close to existing residential dwellings. With the building heights envisaged by the site specific DCP and LEP it is inevitable that there will likely be some degree of overlooking as the area undergoes the transition to a higher density residential environment. However it is agreed that privacy screens to balconies in close proximity to the neighbouring residential dwellings would be appropriate, to assist in minimising any potential privacy impact. These can be required as a condition of consent, to be included at Attachment B to this report.

Amenity Impacts

- *The proposal mentions a percentage of affordable housing. Does this mean housing commission? If so this needs to be confirmed in writing, as this coupled with bad elements in the area may further compound local community issues.*
- *The communal garbage room for the George Street building should be located in the basement to protect the amenity of adjoining dwellings from smell/odour. This would also minimise garbage truck noise on adjoining dwellings on collection days.*

Comment:

The ARHSEPP requires that a portion of the development (46% of units in this case) be used for the purposes of affordable housing for a period of 10 years from the date of the issue of the occupation certificate. The applicant has provided documentation confirming that a registered community housing provider (Evolve Housing), rather

than Housing NSW (i.e. 'housing commission') will manage these units according to the requirements of the SEPP. It is not expected that the use of part of the development as affordable housing would have any impact on local community issues as claimed in the submission.

The proposed waste collection area for the George Street and Central buildings is located more than 10 metres from the western property boundary and should therefore not give rise to any unreasonable odour or amenity impacts from routine storage or collection.

Safety

- *With a high volume of residents walking at night it will not be safe as it will cause insecurity of local residents.*
- *Problems that will come from all these people who only have a hotel with alcohol and poker machines as their outlet? How many people will be walking around the street at night from this hotel?*

Comment:

There is no evidence to support concerns that the proposed development would result in any direct increase in crime or anti-social issues in the locality. On the contrary, an increase in the number of residents walking the local street network could in fact have a positive effect on security in the area through improved natural surveillance.

Occupants of the development would have the same access to services as existing residents. It therefore cannot be reasonably held that new residents would bring any increased likelihood of alcohol- or gaming-related issues to the area.

Access to Open Space

- *There is a lack of communal and recreational space and the surrounding neighbourhood will have to accommodate and share with them the existing public facilities, roads, parking and recreational space like parks, thus share an extra burden.*
- *The proposed development has a lack of communal and recreational space and falls short of the minimum required communal open space as set by SEPP 65.*

Comment:

The proposed development, as amended, complies with the SEPP 65 communal open space requirements. Communal open space that is equal to a minimum 25% of the site area needs to be provided. The application proposes a total communal open space area (including both at grade spaces and rooftop terraces) of 28%.

It is noted earlier in this report that the site has access to a public reserve, being located directly across George Street from Graf Park. Public open space is available to all residents, whether they be existing residents or new to the area. It is noted,

however, that the proposed development does not rely on this access in order to comply with the SEPP requirements.

Economic / Property Impacts

- *This is a business enterprise zone and this plan provides not even one tenth of the total development to business, so it really is only residential development and not employment driven.*
- *The proposed basement excavation associated with the Central building is very close to our existing fence. The applicant should provide a dilapidation report detailing the current conditions and status of our building/fence/rear patio. The applicant should be made to send a copy of the report to adjoining owners prior to the commencement of any works.*
- *Will this complex affect housing values?*

Comment:

The proposed development includes nearly 2,500m² commercial / showroom space at the Hume Highway frontage of the development site, which is considered appropriate to meet the objectives of the 3(c) zone. The development does comprise a large proportion of residential floor space, however '*residential flat buildings*' are permitted with consent according to the provisions of the BLEP.

It is agreed that the requirement for dilapidation reports would be appropriate, both prior to and at the completion of any excavation works. A condition of consent outlining these requirements is included at Attachment B to this report.

No evidence has been submitted to support any potential impact on property values.

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

The proposed development would not contravene the public interest. The proposed development responds appropriately to the provisions of the relevant environmental planning instruments, including *State Environmental Planning Policy (Affordable Rental Housing) 2009* and the *Bankstown Local Environmental Plan 2001*, the requirements of the *SEPP 65 Residential Flat Design Code*, and the site-specific development controls contained in the *Bankstown Development Control Plan 2005*. Matters raised in public submissions have been satisfactorily addressed, and there would be no unreasonable impacts on the locality.

CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*.

The proposed development represents an appropriate built form for the site. 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 development of a key site in the Rookwood Road redevelopment precinct of the Hume Highway Corridor, without having any unacceptable or unreasonable impacts on the surrounding locality.