

Report to Sydney West Joint Regional Planning Panel

JRPP No.	2015SYW003 DA
DA No:	JRPP-14-2593
Proposed Development:	Shop top housing
Development Type:	Capital Investment Value > \$20 million
Lodgement Date:	19 December 2014
Land/Address:	Lot 3 DP 1002728 28 Second Ave, Blacktown
Land Zoning:	B4 Mixed Use
Capital Investment Value of Approved Development:	\$26,656,484
Applicant:	RCBS Landco Pty Ltd
Report Author:	Melissa Parnis, Assistant Team Leader Projects
Instructing Officers:	Judith Portelli, Manager Development Assessment Trevor Taylor, A/Director Design and Development
Date Submitted to JRPP:	3 June 2015
Date Considered by JRPP:	17 June 2015



Figure 1 Photomontage (Tony Owens Partners, 2015)

ASSESSMENT REPORT

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1 Executive summary

- 1.1 Blacktown City Council is in receipt of a Development Application (DA) from RCBS Landco Pty Ltd. The DA seeks approval for the construction of a 24 storey building to include 2 levels of commercial space, with 106 residential apartments on top at 28 Second Ave, Blacktown.
- 1.2 The proposed development constitutes 'regional development' requiring referral to the Joint Regional Planning Panel (JRPP) as it has a capital investment value of \$26.6 million. While council is responsible for the assessment of the DA, the Sydney West JRPP is the consent authority.
- 1.3 The development is proposed to be located on the portion of the site that is zoned B4 Mixed Use under Blacktown Local Environmental Plan (Central Business District) 2012 [BLEP (CBD)]. Shop top housing is permissible in the B4 zone with development consent. The city-wide Blacktown Local Environmental Plan (BLEP) 2015 was published on 26 May 2015 and comes into force in 7 July 2015. The BLEP 2015 will incorporate the planning controls of BLEP (CBD), and the site will continue to be zoned B4 Mixed Use.
- 1.4 A detailed assessment has been undertaken against the provisions of the BLEP (CBD) and the Blacktown Development Control Plan 2006 (BDCP). The proposed development is compliant with the numerical provisions of the BDCP, with the exception of car parking, podium height and common open space. The development complies with the BLEP (CBD) with the exception of building height and floor space ratio.
- 1.5 The applicant has lodged a request under Clause 4.6 for a variation to development standards for consideration by the JRPP. The building height is varied by up to 5.1 m above the permissible height limit. The variations are considered acceptable as the exceedance is a result of the lift overrun and plant and equipment, which have a negligible shadow and amenity impact on adjoining properties. The height variation does not result in additional floor levels.
- 1.6 The DA also seeks a Clause 4.6 variation to floor space ratio. The permissible FSR is 8.5:1, whereas the development proposes an FSR of 8.83:1. The variation of 0.33:1 is considered acceptable as the bulk and scale of the development is not considered to be intensified, with suitable setbacks and variation to the streetscape to reduce the impact. The scale of the development is considered reasonable within the Blacktown CBD context, given the site's proximity to the Blacktown train station, bus interchange and major arterial road network.
- 1.7 The BDCP requires CBD residential developments to provide a minimum 42% of the total common open space required for residential flat development elsewhere in the city. There is no science to the 42% rule, it has been evolved over time for the CBD area following a number of reports to Council over the last 10 years where Council gave variations depending on the scale of the development and location. This has been the case as the residential flat buildings required in residential zones do not work given the site restraints and scale of development within the CBD.

Given the number of units in this proposal in order to meet the 42% guideline, a minimum 2,256 sqm of common open space would be required, which is more than 230% of the site area. The development proposes 574 sqm of common open space. However, the proposal does comply with the Residential Flat Design Code (RFDC), which is the NSW wide accepted industry design standard. The RFDC identifies a requirement for 25% of the site area as common open space. The development proposed 58% of the site area as common open space, double the RFDC standard. As individual units are also each provided with a minimum 3 m x 2.5m private balcony area and the site adjoins the future public recreation area on Boys Ave, we consider the variation acceptable.

- 1.8 The BDCP also identifies a maximum podium height of 3 storeys. The development proposes a podium height of 4 storeys. As the intended use of the podium are commercial floor spaces oriented to the public streets as well as decked car parking, the podium will not generate additional privacy concerns as openings are orientated to the public street and car parking is not considered a high-use area. The overshadowing impact of the additional podium storey is also considered negligible given the minor overshadowing difference between a 3 storey podium and 4 storey podium as explained in detail at Section 8. The application also provides for a 6m setback from Second Ave, which allows adjoining developments to receive additional solar access. The podium will also be of a high aesthetic standard, finished in powdercoated aluminium mesh for Levels 1-3 to screen the car park and reduce the bulk and scale of the podium to the streetscape by adding interest and variation in sight lines to the podium.
- 1.9 The proposal is consistent with the objectives of State Environmental Planning Policy No. 65 (SEPP 65) and satisfactorily achieves the 10 'design quality principles' listed under Part 2 of the SEPP. Council officers have also assessed the application against the design guidelines provided within the Residential Flat Design Code (RFDC). The development complies with the numerical recommendations of the RFDC, with the exception of building separation.
- 1.10 The RFDC identifies a 24m building separation between buildings with a height greater than 9 storeys. However, the RFDC does allow consideration for the urban context of the site. The proposal provides a 6m side setback, in line with the BDCP. Given the urban context of similar developments on Second Ave, side setbacks of between 1m and 6m with point encroachments have previously been approved for developments between 9 storeys and 20 storeys.
- 1.11 The proposed development was notified to property owners and occupiers within the locality between 10 and 24 February 2015. A total of 3 submissions were received. The main grounds for concern relate to lack of car parking, compliance with planning controls, lot frontage, waste management, precedent, development of adjoining lots and overshadowing. The grounds for objection are noted and, where necessary, appropriate conditions will be imposed on any consent to address these concerns. However, none of the grounds for objection are considered sufficient to warrant refusal of the application.
- 1.12 Overall, the development is considered satisfactory with regard to relevant matters such as siting and design, bulk and scale, privacy, access, traffic impacts, parking and stormwater drainage. The proposed development has been assessed against the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, including the suitability of the site and the public interest, and is considered satisfactory.
- 1.13 It is recommended that the proposed development be approved subject to the conditions documented at **Attachment 1** to this report.

2 Location

- 2.1 The site is located within the Blacktown Central Business District, on the northern side of the Western rail line.
- 2.2 The site is located approximately 350 m north of the Blacktown railway station on the Western line.
- 2.3 The existing locality is currently characterised by a mix of low rise residential flat buildings and commercial/light industrial development including a medical centre, the Blacktown RSL and Officeworks.
- 2.4 Over the last 10 years, a number of development approvals have been issued on surrounding sites, including:

- 29-31 Second Ave, Blacktown (JRPP-09-1574 – approved 9 September 2010) – 20 Storey mixed use development comprising commercial and 168 residential units. This DA is currently valid and required to be physically commenced by 9 September 2015.
- 20 Second Ave, Blacktown (DA-02-2551 – approved 12 October 2004) – 11 storey mixed use development comprising commercial and 34 residential units. Works on site have physically commenced.
- 26 Second Ave, Blacktown (DA-13-1143 – approved 17 September 2014) – 9 storey mixed use development comprising commercial and 32 residential units. This DA is currently valid, however, physical commencement has not occurred to date.

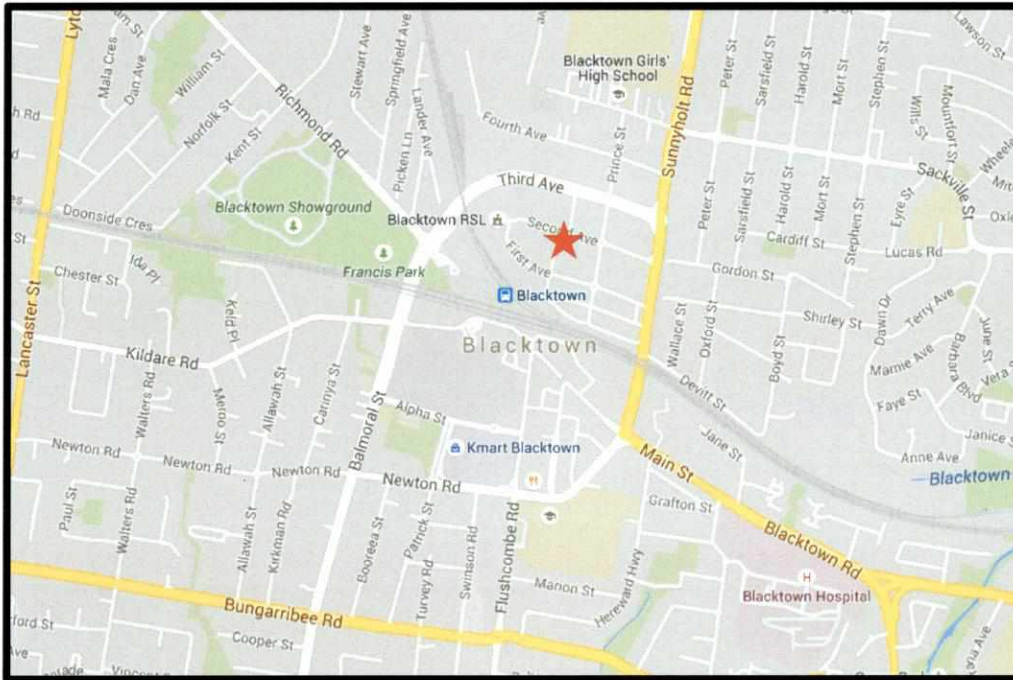


Figure 2 Location map (Source: Google, 2015)

3 Site description

- 3.1 The site is a corner lot, with frontages to both Boys Ave and Second Ave, Blacktown.
- 3.2 The site has an area of 971.2 sqm. The site's northern frontage to Second Ave has a boundary length of 9.1 m and a western frontage to Boys Ave of 45.7 m. The southern property boundary has a length of 18.2 m and eastern property boundary of 54.86 m.
- 3.3 The site is vacant land and is cleared of vegetation.
- 3.4 The site is zoned B4 Mixed Use under the BLEP (CBD) 2012. When BLEP 2015 comes into force in 7 July 2015, the site will continue to be zoned B4 Mixed Use.



Figure 3 Aerial image captured 30 November 2014 (Source: Nearmap, 2015)

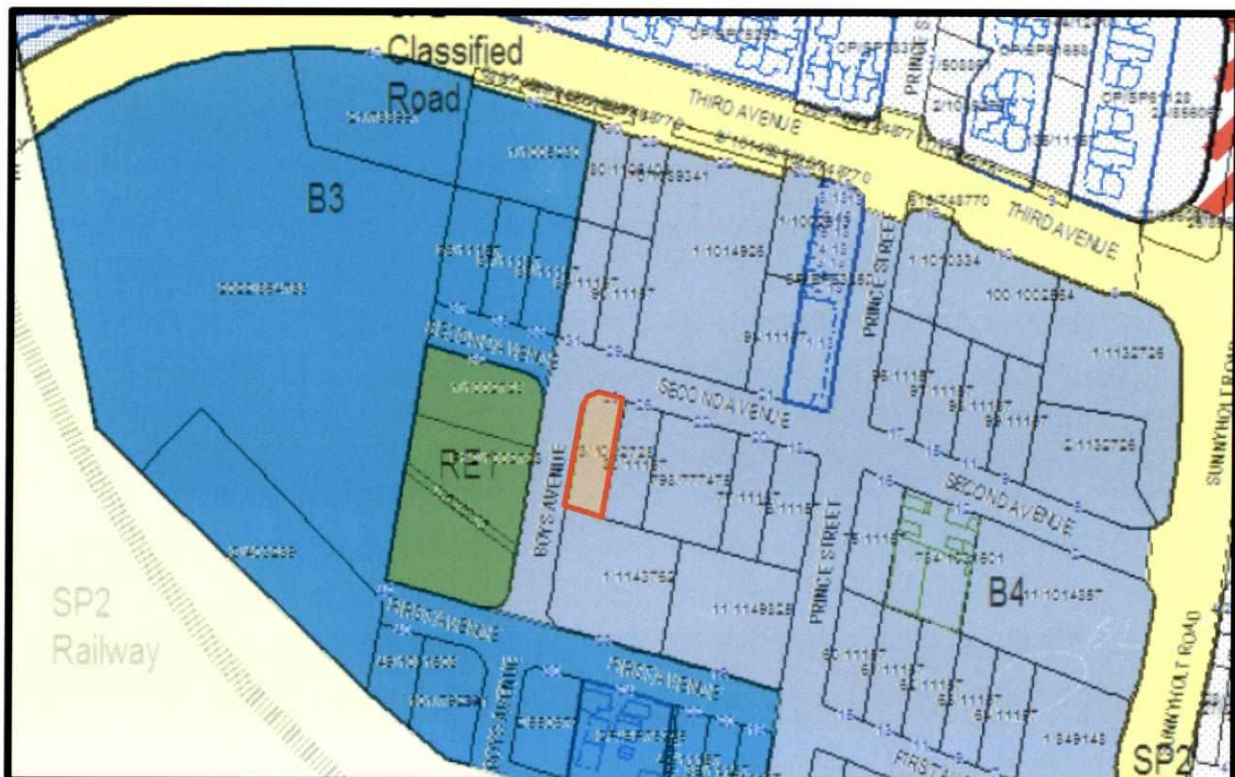


Figure 4 Zoning extract (Source: BCC, 2015)

4 Background

- 4.1 On 27 May 2004, Council granted deferred commencement consent for the demolition of an existing dwelling and the construction of a part 14 and part 18 storey mixed use building at the subject site and adjoining site at H/N 26 Second Ave, Blacktown.

- 4.2 Since the granting of the above consent, landowners have gone their separate ways and the landowners of both sites seek to develop their sites independent of the adjoining site.
- 4.3 On 17 September 2014, Council approved the construction of a 9 storey mixed use development on the adjoining site (26 Second Ave). The 9 storey building comprised on ground and first floor commercial areas and 8 floors of residential apartments consisting of 32 apartments.

5 The proposal

- 5.1 The proposal seeks consent for the construction of a 24 storey mixed use tower building at the site. The development includes 4 basement levels, a 4 storey podium containing commercial units and above ground parking areas and a residential tower containing 20 levels.
- 5.2 The proposed development seeks approval for 285 sqm of commercial floor space. This includes 3 commercial tenancies at ground level, one of which extends to the first floor and a further commercial tenancy at the first floor within the podium level. Private balconies and/or courtyards have also been provided.
- 5.3 A total of 106 residential apartments are proposed from Levels 4 to 23. The apartment mix includes 19 x 1 bedroom units, 74 x 2 bedroom units and 13 x 3 bedroom units. 11 units are adaptable.
- 5.4 The building is built to the boundaries for the 4 podium levels and has a setback of 6m from the eastern and southern properties, with the exception of the starwells, which is setback 4m from the eastern boundary.
- 5.5 A total of 127 car parking spaces are proposed in 4 levels of basement car parking as well as podium levels 1-3. This includes 106 residential car parking spaces and 21 residential visitor car parking spaces. No on site car parking spaces are proposed for the commercial tenancies, as a contribution is to be made to Council instead under Council's Contribution Plan No. 7 – Car parking in the Blacktown CBD for 10 required spaces.
- 5.6 The DA proposes 2 new vehicle access points, with a single access point from each street frontage.
- 5.7 The maximum building height of the development is 77.1 m. The development seeks an exceedance of 5.1 m above the maximum height limit of 72 m under the BLEP (CBD) 2012 (now BLEP 2015). The maximum variation sought is equivalent to a 7% variation to the development standard. The applicant has lodged a Clause 4.6 request to vary the development standard. The applicant's Clause 4.6 request is at **Attachment 2**. Council's assessment of this variation is undertaken in Section 9.
- 5.8 The proposal has an FSR of 8.83:1, which exceeds the maximum FSR of 8.5:1 for the site. The development seeks a 3.9% variation to the development standard. The applicant has also lodged a Clause 4.6 request to vary this development standard. The applicant's Clause 4.6 request is at **Attachment 2**. Council's assessment of the variation is undertaken in Section 9.
- 5.9 The development provides for 574 sqm of communal open spaces, being a top of the podium level as well as within the proposed roof terrace. The communal open space areas will be embellished with a mixture of paved and grass areas as well as suitable trees and shrubs within landscape planters. Communal seating and barbeque areas are also proposed within the rooftop terrace.
- 5.10 The building has been architecturally designed by registered architect Tony Owens and the development has been supported with a Design Verification Statement in accordance with the requirements of SEPP 65. The statement identifies that the proposed building

will be a progressive design of a high quality, which will enrich the area and provide a benchmark for the community. The building has been designed to provide a slender tower on top of a streetscape defining podium. The lower levels of the podium are full glazing, with upper levels are clad in a perforated metal mesh. The podium design and commercial ground floor design promotes active street frontages.

- 5.11 The development proposes a variety of external colours and finishes, including painted concrete balustrades and walls in a variety of grey, brown and white colours, aluminium framed glass balustrades and aluminium framed glazing. Aluminium panel mesh surrounds the proposed podium. Photomontages which demonstrate the colours and finishes are held at **Attachment 3**.
- 5.12 The Applicant has submitted a Traffic and Parking Assessment Report prepared by Traffix. The report reviews the road network in the vicinity of the site and assesses the traffic implications of the development proposal in terms of road network capacity. The report identifies that in accordance with the Roads and Maritime Services publication *Guide to Traffic Generating Developments*, the development will result in an increase of up to 20 vehicles per hour during the critical AM peak period and 16 vehicles per housing during the PM peak period. The report identifies that this is a moderate increase and equates to less than a single additional vehicle movement every 3 minutes which will have a minimal impact on the performance of the surrounding road network. The report concludes that these trips will be distributed in both directions (in and out) and can be readily accommodated, with minimal impacts on the surrounding road system.
- 5.13 A Statement of Compliance Access for People with a disability has been prepared for the development. The report undertakes an assessment in regard to the capability of the proposal to achieve the spatial requirements to provide access for people with a disability in line with relevant requirements, including the Building Code of Australia (BCA), Access to Premises Standard and relevant Australian Standards (AS). The assessment concludes that the proposal can achieve compliance with the access provisions of the BCA and AS 4299 Adaptable Housing.
- 5.14 An Acoustic Assessment prepared by Acoustic Logic has been submitted as part of the DA. The report conducts an external noise impact assessment, primarily traffic noise and recommends acoustic treatments to ensure that a reasonable level of amenity is achieved for future residents. The report identifies that in all cases within the development, the selected glazing type with variable glazing thickness and Q-Ion type acoustic seals reduces internal noise levels to within the nominated criteria for the various space types.
- 5.15 In addition, potential noise sources generated by the site are also assessed, particularly noise generated by mechanical plant. The nearest potential effected receivers are the residential development to the east and medical complex to the south of the site. As mechanical plant items are not selected at DA stage, the report recommends detailed review of all external mechanical plant should be undertaken at construction certificate stage (once plant selections and locations are finalised). Acoustic treatments should be determined in order to control plant noise emissions to the levels set out in the report in accordance with the NSW Environment Protection Authority Industrial Noise Policy and the Protection of Environmental Operation Act Regulation. All plant can be satisfactorily attenuated to levels complying with noise emission criteria through appropriate location and (if necessary) standard acoustic treatments such as noise screens, enclosures, in-duct treatments (silencers/lined ducting) or similar.
- 5.16 The applicant has submitted a Pedestrian Wind Environment Statement prepared by Windtech. The statement assesses the likely impact of the proposed design on the local wind environment to the critical outdoor areas within and around the subject development. The results of this assessment indicate that tolerable wind conditions are expected to be achieved for the majority of the outdoor trafficable areas within and around the subject development site with the inclusion of the proposed developments.

These include the Level 4 communal open spaces and the various private balconies along the northern and southern aspect which benefits from the shield provided by the subject development and the effective use of wind mitigating devices in the design of the development such as recessing the private balcony areas into the building form and the inclusion of architectural screens and upstand walls along the various private balconies and terraces.

- 5.17 There are however outdoor trafficable areas within and around the subject development site that are exposed to potentially adverse wind conditions due to a number of factors such as direct wind and accelerating flow effects around the corner areas of the development, the street alignment to the prevailing wind directions for the Blacktown region and lack of shielding from the neighbouring developments at the higher levels. To ensure tolerable wind conditions are achieved for all trafficable outdoor areas within and around the site, the following set of treatments have been recommended to be incorporated into the final design, including additional landscaping, impermeable awnings and inclusion of 2m high impermeable screens along the perimeter of the rooftop communal open space.
- 5.14 A full assessment of the proposal is provided in Section 8 and a copy of the development plans is included at **Attachment 4**.

6 Planning controls

- 6.1 The planning controls that relate to the proposed development are as follows:

(a) **Environmental Planning and Assessment Act 1979**

For an assessment against the Section 79C 'Heads of Consideration' please refer to Section 11.

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

SEPP (State and Regional Development) 2011 confers 'Regional Development' as listed in Schedule 4A of the Environmental Planning and Assessment Act 1979 to the Joint Regional Planning Panel (JRPP) for determination. The proposed development constitutes 'Regional Development' requiring referral to a JRPP for determination as the proposed development has a Capital Investment Value of more than \$20 million. While council is responsible for the assessment of the DA, determination of the Application will now be made by the Sydney West Joint Regional Planning Panel.

(c) **State Environmental Planning Policy (Infrastructure) 2007**

SEPP (Infrastructure) 2007 ensures that the RMS is made aware of and allowed to comment on development nominated as 'traffic generating development' listed under Schedule 3 of the SEPP. The proposed development does not have more than 300 dwellings and does not have access within 90m of a classified road. Therefore, the development is not classified as 'traffic generating development to be referred to RMS' under the SEPP.

(d) **State Environmental Planning Policy No. 55 – Remediation of Land**

State Environmental Planning Policy No. 55 – Remediation of Land aims to 'provide a State wide planning approach to the remediation of contaminated land'. Where contamination is, or may be, present, the SEPP requires a proponent to investigate the site and provide the consent authority with the information to carry out its planning functions. As the site is vacant land within the existing CBD area, a detailed assessment has not been submitted. A review of the site's history has been undertaken, which has identified previous uses as residential, with the demolition of the dwelling approved in 1997 and sealing for the site for car parking.

Whilst the dwelling was demolished, the sealing of the site for use as car parking was never undertaken. The site is currently secured with a chain wire fence.

As the site will have basement car parking for the extent of the entire site, excavated to 4 levels, there will be no exposed areas. **Conditions** will be imposed on any development consent to ensure that during construction if any contamination is identified, appropriate measures are to be undertaken to ensure the site is made suitable for residential development without any limitations (**Condition 8.7.1**).

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

State Environmental Planning Policy No. 65 (SEPP 65) – *Design Quality of Residential Flat Development* applies to the assessment of development applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings. The State Government *Residential Flat Design Code* (RFDC) also applies. The SEPP primarily aims to improve the design quality of residential flat development and states that residential flat development is to 'have regard to the publication *Residential Flat Design Code* (a publication of the Department of Planning, September 2002)'.

As part of the submission requirements for any residential flat development, the DA must provide an explanation of the design in terms of the 10 'design quality principles'. In determining a DA, a consent authority must take into consideration the design quality of the residential flat development when evaluated in accordance with the 10 'design quality principles' set out in Part 2 of the SEPP. The development complies with the 10 design principles, as identified within **Attachment 5**.

(f) Residential Flat Design Code (RFDC)

In addition to the 10 'design quality principles' referred to above, SEPP 65 requires that, when assessing an application, council must have consideration for the design guidelines provided in the Residential Flat Design Code (RFDC). Council officer assessment of the main numerical guidelines from the RFDC is held at **Attachment 6**. The development complies with the key 'rules of thumb' identified within the RFDC, with the exception of building separation. The non-compliance with the recommended building separation is discussed in Section 8 below.

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

Multi-dwelling BASIX Certificates were lodged as part of the DA, as well as a NatHERS (Nationwide House Energy Rating Scheme) Assessor Certificate. The BASIX Certificates identify that all buildings achieve the required water, thermal comfort and energy scores required. A suitable **condition** will be imposed on any development consent requiring compliance with the submitted BASIX Certificates (**Condition 5.2.1**).

(h) Blacktown Local Environmental Plan (Central Business District) 2012 [BLEP (CBD) 2012]

The subject site is zoned B4 Mixed Use under the BLEP (CBD) 2012 (now BLEP 2015). Shop top housing is permissible within the zone with consent. The development complies with the development standards with the BLEP (CBD) 2012 with the exception of building height and FSR. The applicant seeks Clause 4.6 Exception to development standards. **Attachment 7** provides an assessment of the development standards established within the BLEP (CBD) 2012 and the proposal's compliance with these standards.

(i) Blacktown Development Control Plan 2006 (BDCP)

The BDCP applies to the site. **Attachment 8** provides a table that outlines the proposal's compliance with the BDCP. The development complies with the development controls, in particular Part D – Development within Business zones, with the exception of common open space and car parking variations. Both variations are discussed in detail in Section 9 of this report.

(j) Draft SEPP 65 – Amendment No. 3

Amendment No. 3 to SEPP No. 65 – Design Quality of Residential Flat Development was exhibited between 23 September and 31 October 2014 and is therefore a matter for consideration as a Draft EPU in relation to the proposed development.

The amendments to the SEPP and accompanying Apartment Design Guide include minimum standards for apartment size, car parking requirements and ceiling heights and that the new Apartment Design Guide will carry more weight in assessment over DCP provisions.

The DA is not inconsistent with the proposed amendments in relation to the SEPP Amendment. Further, as the draft Apartment Design Guide is not a Draft EPI, it is not a matter for consideration in the assessment of the subject application.

(k) Draft Blacktown Local Environmental Plan 2013

The Draft Blacktown Local Environmental Plan 2013 (DBLEP 2013) was placed on public exhibition between 23 January 2013 and 19 April 2013. The DBLEP 2013 proposes to include the BLEP (CBD) 2013 within the Blacktown city-wide LEP. Blacktown Local Environmental Plan 2015 was published on 26 May 2015 and comes into force on 7 July 2015. The BLEP (CBD) will continue as part of the complete city-wide BLEP 2015 post 7 July 2015. The site will continue to be zoned B4 Mixed Use and the proposed development of shop top housing will continue to be permissible with development consent.

7 Internal referrals

7.1 The DA was referred to the internal sections of council as summarised below:

Section	Comments
Engineering	Council's Engineering Section has reviewed the DA and raises no objections, subject to conditions (Conditions 6.1 – 6.8) .
Building	Council's Building Section has reviewed the DA and raises no objections, subject to conditions (Conditions 5.1, 8.1 – 8.6) .
Traffic Management Services (TMS)	<p>Council's Traffic Management Section (TMS) has assessed the proposal and have advised that the anticipated traffic movements due to the proposed development are likely to be accommodated within the existing road network in the area and that the proposed parking in term of design complies with the relevant standards. Further, the proposed accesses appear to be satisfactory in terms of the location and pedestrian sight distance is clear of obstruction in compliance with AS2890.1.</p> <p>TMS originally objected to the proposed parking, as it is non-compliant with the BDCP 2006 car parking requirement. However, in April 2015 Council adopted the Blacktown Parking Management Plan as policy, which endorsed reduced car parking rates in the Blacktown CBD. The proposal complies with the new policy and therefore, TMS are now satisfied with the car parking provided. Section 8 provides further discussion on this matter.</p>

Section	Comments
Waste Services	Council's Waste Services Section has reviewed the DA and raises no objections, subject to conditions (Conditions 11.10 and 12.6) . A detailed discussion of waste collection is undertaken in Section 8.
Commercial Centres Planner	Council's Commercial Centres Planner has reviewed the development proposal and raised no objections.
Environmental Health Section	Council's Environmental Health Section has reviewed the development proposal and provided relevant conditions (Conditions XX13.1 and 10.1
Tree Management Officer	Council's Civil and Open Space Infrastructure Officer has provided suitable conditions in relation to street tree planting and the public domain (Condition 11.13

8 Assessment

8.1 An assessment of the key issues relating to the proposed development is presented below:

(a) Clause 4.6 – exceptions to the provisions of the BLEP (CBD) 2012

The applicant has lodged 2 Clause 4.6 'Exceptions to development standards' submissions. The objective of the clause is to provide an appropriate degree of flexibility in applying certain development standards, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant has submitted a formal written request for the building height and floor space ratio variations, which is held at **Attachment 2**.

Clause 4.6 further states the following:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

- (b) *the concurrence of the Director-General has been obtained.*

In accordance with Clause 64 of the Environmental Planning and Assessment Regulation 2000, a consent authority, in this case the JRPP, has 'assumed

concurrence' from the Director-General of the Department of Planning and Environment.

(i) Building height variation

Clause 4.3 of the BLEP (CBD) establishes that the maximum height of buildings on the site as 72 m. The BLEP (CBD) defines building height as follows:

'building height (or height of building) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.'

The building complies with the 72 m height limit measured from existing ground level with the exception of encroachments of lift overruns, plant and equipment and parapets. The development seeks a maximum variation of 5.1 m to the top of the lift overrun in an isolated portion of the building.

The Land and Environment Court has established the following 'five part test' for a consent authority to take into consideration when deciding whether to grant concurrence to a variation to a development standard:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

The objectives of Clause 4.3 Height of buildings are as follows:

- (a) *to establish maximum height controls for buildings as a means of controlling the density and scale of buildings,*
- (b) *to nominate heights that will provide a transition in built form and land use intensity,*
- (c) *to define focal points by way of nominating greater building heights in certain locations,*
- (d) *to provide sufficient space for development for the purposes of retail premises, commercial premises and residential accommodation,*
- (e) *to allow sun access to the public domain and ensure that specific areas are not overshadowed,*
- (f) *to ensure that buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (g) *to minimise any visual impact on, or loss of solar access to, land in the vicinity of proposed development as a result of that development,*
- (h) *to minimise any loss of privacy to residential land as a result of proposed development,*
- (i) *to ensure that there is an appropriate interface between commercial centres and land in any adjoining residential zone or in any adjoining public land.*

• Maximum height

The maximum height limit on the site is 72 m, whilst the maximum height of the development lift overrun is 77.1 m in height. The

maximum variation sought is 7%. The development does not achieve another residential level as a result of the exceedance in height.

- **Public areas**

The provision of lift overrun to the rooftop common open space enables the development to achieve a number of objectives. This includes sufficient space for commercial and residential components, with a high quality common open space area for future residents to be achieved. The use of this area also allows exposure to the sky and sunlight for residents, in accordance with the objectives of the development standard.

- **Solar access to buildings and open space of adjoining development and land**

Overshadowing as a result of lift overruns and the stairwell roof are negligible, as the majority of overshadowing is captured within the roof space. Overshadowing as a result of height variation is identified with **Attachment 9**.

The height variation will not result in any increased overshadowing of the public domain or future public open space areas on Boys Ave.

- **Range of building heights in appropriate locations**

The site is considered suitable for the development given its proximity to the Blacktown railway station and the Blacktown CBD. The proposal seeks a variation of 7% to the building height control, however the majority of the development continues to comply with the development control.

- **Privacy impacts**

The building height variation does not result in any additional privacy impacts on adjoining properties. Potential privacy impacts because of the use of the rooftop terrace will be suitably addressed through the provision of perimeter planting boxes around the eastern and southern property boundaries.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

The purpose of the standard is still considered relevant to the proposal. However, 100% compliance in the circumstances is considered unreasonable.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

The purpose of the development standard would not be defeated if compliance was required. However, 100% compliance is considered unreasonable as the variation is acceptable based on merit.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

The development standard within the BLEP (CBD) 2012 has not been previously varied. However, as the variation is based on an internal encroachment to the lift overrun and plant and equipment to create a usable common open space area, the variation is considered acceptable.

5. **The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

The development is a vacant site. Full compliance with the development control would be able to be achieved, but the variations do not increase residential density. However, given the site's context within the Blacktown CBD and limited site area, the minor variation to create usable space for the benefit of future residents is considered acceptable.

(ii) **Floor space ratio (FSR) variation**

The proposal seeks a variation to the maximum permissible floor space ratio, proposing an FSR of 8.83:1. The maximum permissible FSR on the site is 8.5:1.

Using the same Land and Environment Court 'five part test' for a consent authority to take into consideration when deciding whether to grant concurrence to the variation to a development standard, the following comments are offered:

1. **The objectives of the standard are achieved notwithstanding non-compliance with the standard**

The objective of Clause 4.4 Floor space ratio is:

- (a) *to establish maximum floor space ratios as a means of controlling the density, bulk and scale of buildings,*
- (b) *to establish the maximum floor space for development for the purpose of commercial premises, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,*
- (c) *to concentrate intensive land uses in locations that are most accessible to transport or are on key gateway sites.*

The objectives of the development standard is considered to be achieved as development is not of a bulky scale and density is not excessive. The slender design of the development and variation in façade with geometric pattern, a variety of colours and material types, as well as architectural roof features ensures the massing of the building is satisfactory.

The variation will result in an additional 323.7 sqm of floor space and strict compliance with the development control would result in a less desirable design outcome for the development within the CBD context, as the continuity in the built form and overall development height would be fragmented. The scale of the development is considered appropriate within the CBD.

The commercial floor area provided by the development enable 4 tenancies of sufficient scale to actively address the street, including future public open space area on Boys Ave.

The DA is consistent with objective (c), as the land use is approximately 350m north of the Blacktown railway station and bus interchange. Given the site's proximity to public transport, the minor variation in floor space is considered acceptable in this circumstance.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

The purpose of the standard is still considered relevant to the proposal. However, strict compliance would be considered unreasonable.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

The underlying objective of the development standard is still considered acceptable. However, compliance in this circumstance is considered unreasonable and the objectives as outlined above are considered to be achieved.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

The BLEP (CBD) came into force in 2013. Whilst the adjoining development did comply, the development did not achieve the full height required by the building height control. Other developments in Second Ave of a similar scale to the proposal were approved prior to the BLEP (CBD) came into force. Notwithstanding this, the variation sought is considered acceptable.

5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The development is a vacant site. Full compliance with the development control would be able to be achieved, but the variations do not increase residential density. However, given the site's context within the Blacktown CBD and limited site area, the minor variation is considered acceptable.

(b) Blacktown Development Control Plan 2006

The provisions of the Blacktown Development Control Plan 2006 (BDCP), in particular Part D – Development in the Business zones, apply. **Attachment 8** provides a table that outlines the proposal's compliance with the BDCP, with the exception of car parking and common open space which is outlined below.

(i) Car Parking

At the time of lodgement of the DA, the proposal did not comply with the current car parking controls established within the BDCP. However, on 29 April 2015, Council resolved to adopt the Blacktown Parking Management Plan within the Blacktown CBD. Council further resolved to adopt the revised parking rates for the Blacktown CBD as policy and be applied immediately. The following table provides a summary of the car parking proposed and the development's compliance.

Type	Number/ GFA	BDCP 2006 parking rates	Spaces required	Blacktown Parking Management Plan	Spaces required	Spaces proposed
1 bedroom unit	19	1 space per dwelling	19	1 space per dwelling	106	106 (1 space per unit)
2 bedroom unit	74		74			
3 bedroom unit	13	2 spaces per dwelling	26			
Residential Visitor	106	1 space per 2.5 dwellings	43	1 space per 5 dwellings	21	21
Commercial /Retail	285.2sq. m	1 space per 30sq.m	10	1 space per 30 sqm	10	Nil
Totals			172 previously required		127 now required	127 provided

The applicant has identified that a development contribution will be paid for the 10 commercial/ retail car parking spaces in accordance with the Blacktown Contributions Plan No. 7.

The development therefore complies with the revised car parking rates within the Blacktown Parking Management Plan.

(ii) Podium

The BDCP identifies a podium of 3 levels, being a zero setback permissible on the ground floor and the 1-2 levels above. The DA seeks approval for a 4 storey podium. The ground floor and part of first floor is proposed to be used for commercial purposes, with the remaining part of the first floor and levels 2-3 above are proposed to be used as car parking.

The proposed variation is considered acceptable, with the following consideration given to the amenity impacts on adjoining properties, particularly regarding privacy impact, visual impact and overshadowing.

Privacy

Privacy concerns in relation to the proposal are negligible as the use of the podium is restricted to commercial/retail tenancies addressing the public road only and car parking. Potential impacts from glare of car lights are addressed as circulation elements partially utilise the eastern boundary. In addition, balustrades will be provided to ensure glare does not affect the amenity of adjoining properties.

Visual impact

The aesthetic and visual impact of the 4 storey podium has been adequately addressed through the provision of a decorative sculptural element that is evident on Levels 1 to 3 of the podium. The external treatment of powdercoated aluminium mesh treatment in a variety of neutral colours provides suitably screening of parking areas above ground level, whilst ensuring a suitable scale at the street level.

Overshadowing

Attachment 9 provides a shadow diagram comparison between a 3 level podium and 4 level podium on the site. It is evident that the difference in the podium shadow is minimal to the extent of impact on 26 Second Ave, Blacktown. Further, the applicant has provided a minimum setback of 6m from Second Ave of the podium in order to reduce the solar impact on residential units at 26 Second Ave. The 6m setback to Second Ave is in excess of the adjoining 1.5m setback provided by the 26 Second Ave development.

Given the north south orientation of the site, overshadowing on adjoining 26 Second Ave site occurs from 12pm onwards, however, residential dwellings are not overshadowed until at least 1pm. In accordance with the RFDC, 70% of units are to be provided with a minimum 3 hours of direct sunlight between 9am and 3pm, which the units of 26 Second Ave would still be able to enjoy. Further, units approved on of 26 Second Ave are dual or triple aspect units.

Therefore, the increase podium height does not result in adverse overshadowing of adjoining developments.

(iii) Common open space

The BDCP requires common open space for the use of all residents of the development to be provided at the minimum rate of 42% of the sum of the following:

- (a) 40 sqm for each 1 bedroom dwelling;
- (b) 50 sqm for each 2 bedroom dwelling; and
- (c) 70 sqm for each 3 or more bedroom dwelling.

Therefore, the development is required to provide 2,256 sqm. Council's common open space provision is in excess of 2.3 times the total site area. The development proposes to provide only 574 sqm of common open space area. This represent 25% of the required common open space.

There is no science to the 42% rule of thumb. The 42% represents the lowest variation that has been agreed to under the previous Local Environmental Plan applicable in this area. It is also applicable to residential flat buildings in the existing areas. However, as the development is for 'shop top housing', the application of the 42% guideline is not practical or feasible. Shop top housing within the CBD is encouraged to have a podium design by ground and first floor commercial and retail areas under the BLEP (CBD) 2012. Therefore, the provision of common open space area for the residential component of the development is limited to on top of the podium and roof top areas. The proposal provides high quality common open space in both areas and still only achieves 25% of the development control. In order to achieve compliance, a further 3 levels of common open space would be required to meet Council's DCP control.

Given the scale of development with a 72 m height limit, the number of units proposed results in an excessive requirement of common open space areas and Council needs to revisit our centre controls within the CBD areas. Council acknowledges this, and is currently reviewing the DCP applicable for the CBD area to address this. This review is likely to significantly reduce the required amount of open space for this form of development.

The Residential Flat Design Code (RFDC) requires common open space to be provided at a rate of 25% of the site area which would be 243 sqm in this instance. As the site has an area of 971 sqm, the area of common open space proposed is equivalent to 58% of the site area, which is more than double the RFDC requirement. The RFDC standard is consistently used for design purposes state-wide and is the acceptable industry standard.

In addition, all units have been provided with a minimum 7.5 sqm of private balcony areas. The common landscape areas provided are at both podium level and roof top terrace and detailed landscape plans have been submitted detailing their embellishment with communal eating areas, BBQs and variety of trees, shrubbery, grass and hardstand areas. The development is located directly opposite a future Council park on Boys Ave. Therefore, the amenity for future residents is considered satisfactory.

(c) Building separation

The RFDC recommends that the building separation increase in proportion to building height to ensure appropriate urban form, adequate amenity and privacy for building occupants. The RFDC establishes the following suggested building separation:

- (i) *Up to 4 storeys/12 metres*
 - 12 metres between habitable rooms/balconies
 - 9m between habitable/balconies and non-habitable rooms
 - 6m between non-habitable rooms
- (ii) *5 to 8 storeys/up to 25 metres*
 - 18 metres between habitable rooms/balconies
 - 13m between habitable/balconies and non-habitable rooms
 - 9m between non-habitable rooms
- (iii) *9 storeys and above/over 25 metres*
 - 24 metres between habitable rooms/balconies
 - 18m between habitable/balconies and non-habitable rooms
 - 12m between non-habitable rooms

Notwithstanding this, the RFDC permits zero building separation in appropriate contexts, such as in urban areas between street wall building types with side walls directly abutting one another.

The proposed development is a 24 storey building with a height of 77m and provides a side setback of 6m. The only encroachments to 6m side setback is on the eastern elevation, which provides a stairwell with no openings setback 4m from the side boundary.

In applying the RFDC, a maximum 24m separation between buildings is suggested. The proposed development will not comply with the suggested building separation for its intended height.

However, the RFDC acknowledges that building separation controls may be varied in response to site and context constraints. Where a proposed development intends to provide less than the recommended distances apart it must demonstrate

that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved.

As this proposal does seek to vary the building separation, these key parameters are each considered below for compliance:

(iv) *Daylight access*

The proposed development complies with the solar access requirements established within the RFDC, as 75% of dwellings achieve the solar access requirements. Solar access drawings for the proposal are held at **Attachment 9**. Given the north south orientation of the site, adjoining properties are not overshadowed by the development for at least 3 hours a day. The building separation is therefore considered satisfactory as the proposal and adjoining sites currently receive adequate solar access.

(v) *Urban Form*

In considering the existing urban form, consideration should be given to the DAs approved in Second Ave, which similarly have a side and rear reduced setbacks. The below table compares the subject development with these approvals in the vicinity of the application.

Address	Development	Height	Side Setbacks (above podium)	Determination
20 Second Ave	DA-02-5551 Mixed Use development (Commercial and 34 residential units)	11 storeys	Levels 2-9 - 1m- 5.7m (Average 3.3m)	Approved – 24/10/04.
29-31 Second Ave	JRPP-09-1574 Mixed Used development (Commercial and 168 residential units)	20 storeys	6m – 16m (balcony point encroachments to 5m).	Approved – 26/08/10.
26 Second Ave	DA-13-1143 - Mixed use development (Commercial and 32 residential units)	9 storeys	6m, with point encroachments up to 3.5m to balconies and stair wells.	Approved – 15/9/14.
28 Second Ave	JRPP-14-2593 – Mixed use development (Commercial and 106 residential units)	24 storeys	6m, with stair well encroachment to 4m.	This DA.

It can be seen from the above table, that the proposed development is consistent with the setbacks established by previous approvals within Second Ave. Further, the quality and character of the development is consistent with the objectives of the B4 zone, being *“to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling”*. The design of the development encourages an active street frontage and achieves a high design quality with suitable bulk and scale that considers the restrictions of the site.

Part D of the BDCP 2006 currently establishes the development controls which shape the urban form for the Blacktown CBD. The BDCP establishes setback

requirements, enabling a building within the CBD to be 20 storeys in height and have a setback of 6m, with balcony encroachments to be considered on its merits.

Therefore, based on the urban form established by previous approvals on Second Ave, as well as compliance with the BDCP 2006, the development is considered to be consistent with the surrounding urban form.

(vi) Visual and Acoustic Privacy

Proposed balconies are generally oriented towards Boys Ave and Second Ave, with only 2 balconies per level oriented to neighbouring properties. The Applicant has proposed to provide privacy screens on balconies to minimise overlooking and noise while allowing solar access.

The building layout minimises direct overlooking of rooms and private open space of adjacent apartments with balconies to screen other balconies and solid walls and sliding screens to limit horizontal views to balconies.

Based on the above assessment of solar access, urban form and visual and acoustic privacy, the proposed building separation of the development is considered satisfactory and therefore a variation to the suggested building separation requirement is considered reasonable in this circumstance.

Furthermore, it is noted that the numerical standards in the RFDC are guidelines only and therefore generally variations should not warrant refusal of the application. SEPP 65 and the BDCP both acknowledge that the RFDC are only to be taken into consideration. It is not considered that these standards would be possible for every site rather the context of approval with its existing surrounding development should be a dominant consideration.

(d) Waste management

Waste management for the development will be serviced through private contractor. Waste collection is proposed to occur on-site and at-grade. The buildings are provided with garbage chutes for waste and separate recycling bins. A caretaker is proposed for the development.

Conditions of consent will be imposed on any consent issued requiring compliance with the submitted Waste Management Plan. Additional details regarding the waste management agreement to ensure the ongoing waste collection for the proposal can be achieved and will need to be satisfied prior to the issue of the Construction Certificate **(Conditions 11.10 and 12.6)**.

(e) Prescribed airspace

Prescribed airspace for Bankstown Airport under the Airport (Protection of Airspace) Regulations 1997 has been preliminarily identified to Council. The Blacktown CBD. The proposed 77 m building is not impacted by the prescribed airspace as the horizontal plane over the Blacktown CBD is more than 400 m.

In addition, the future flight paths for the future Badgerys Creek airport is currently unknown.

9 Public comment

- 9.1 The DA was notified to adjoining and nearby property owners and occupants for a period of 14 days from 10 to 24 February 2015. An advertisement was also placed in the local newspaper and a notification sign erected on site.

- 9.2 In response to the public notification, 3 submissions were received. This includes 2 submissions on behalf of the adjoining owner of 26 Second Ave, Blacktown received by Council after the notification period. Figure 6 below identifies the location of objectors, noting that 1 submission was received from a Blacktown resident approximately 2km from the development site.

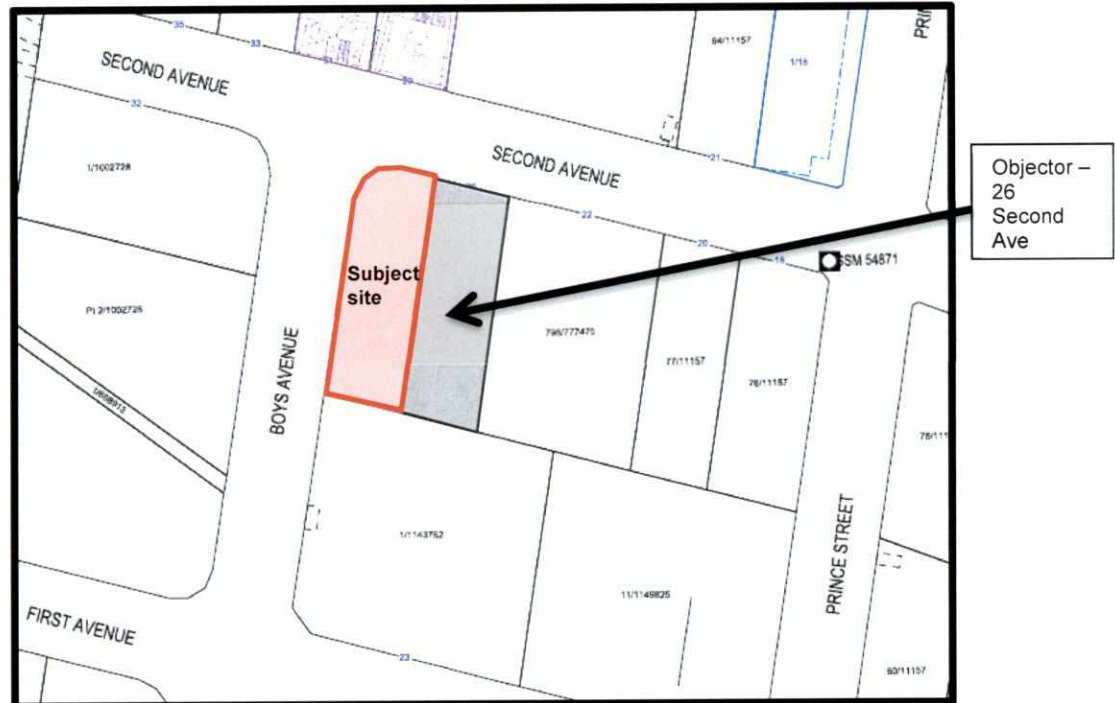


Figure 5 Location of objectors (Source: BCC, 2015)

- 9.3 The concerns have been summarised below, together with Town Planning comments thereon:

(a) Car Parking

The development does not comply with the car park requirement of the current Blacktown Development Control Plan 2006. A reduction in car parking may result in loss of commuter car parking spaces within the CBD.

Town Planning comment:

- As identified above, on 29 April 2015, Council adopted the Blacktown Parking Management Plan as policy. The Blacktown Parking Management Plan now overrides the car parking requirements of the BDCP 2006.
- The development is compliant with the Blacktown Parking Management Plan. The development proposes a total of 127 car parking spaces, which is equivalent to 106 residential spaces being 1 space per unit as well as 21 visitor car parking spaces.
- Should the development be approved, a Section 94 contribution will also be payable for the 10 commercial/ retail car parking spaces required by the development. The development contribution will go towards providing additional car parking within the Blacktown CBD in accordance with the Blacktown Contribution Plan No. 7.

(b) Lot frontage

The development does not comply with the lot frontage of 30 m as required by the BDCP.

Town Planning comment:

- The site is a corner site. Whilst the site does have a frontage of 18 m to Second Ave, the site also has a frontage of 45 m to Boys Ave and is therefore compliant with the lot frontage requirement within the BDCP.

(c) Development of adjoining lots

The objector of 26 Second Ave is concerned that the applicant has not demonstrated that their site can be developed in a similar nature, as required by the BDCP.

Town Planning comment:

- As identified above, the development complies with the lot frontage requirement as established within the BDCP. Notwithstanding this, on 15 September 2014, the adjoining owner received development approval for a 9 storey building. The clause within the BDCP identifies the development needs to demonstrate that adjacent sites could be redeveloped successfully on their own. In receiving the development approval, the objector themselves have demonstrated that their site can be redeveloped separately to the adjoining site.
- Further, Council officers regularly encouraged adjoining landowners to work together, however, an agreement between the private landowners could not be reached. Each DA must therefore be considered on their merits.

(d) Compliance with development controls

The development does not achieve the objectives of Council's LEP and the planning controls as well as the desired future character for the locality, approved development for an adjoining 9 storey building.

The development does not comply with controls including building height, floor space ratio, common open space and building separation.

Town Planning comment

- Section 8 above provides a detailed assessment of the development proposal, including consideration to all variations sought to the existing planning controls.
- The development is considered to be consistent with Council's desired future character for the area, being of a suitable scale within the Blacktown CBD. Whilst the approval on the objector's site is only 9 storeys in height, the 72 m height limit similarly applies to their property.

(e) Precedent

The objector at 26 Second Ave has identified that if the development was approved, a comparable proposed may be submitted on their site and this DA would establish a precedent.

Town Planning comment:

All DAs lodged with Council are considered on their merits based on their compliance with relevant development standards. The objector is within their right to lodge a DA, however, each site must be considered on their merits. For example, the subject development site is a corner lot and therefore benefits from a reduced setback to the secondary street frontage.

(f) Waste collection

Clarification is sought on proposed waste collection method.

Town planning comment:

- As outlined in Section 8.1 (d) above, all waste collection is proposed at-grade on-site and a private contractor will service the development. Suitable **conditions** will be imposed on any development consent issued (**conditions 11.10 and 12.6**).

(g) Overshadowing

The development will cause excessive overshadowing to the neighbouring properties.

Town planning comment:

- The objector's property is located to the east of the site, at 26 Second Ave, Blacktown.
- Given the north south orientation of the site, overshadowing on adjoining 26 Second Ave site occurs from 12pm onwards, however, residential dwellings are not overshadowed until at least 1pm. In accordance with the RFDC, 70% of units are to be provided with a minimum 3 hours of direct sunlight between 9am and 3pm, which the units of 26 Second Ave would still be able to achieve. Further, units approved on of 26 Second Ave are dual or triple aspect units.
- The proposal also provides a minimum 6m from Second Ave of the podium in order to reduce the solar impact on residential units at 26 Second Ave. The 6m setback to Second Ave is in excess of the adjoining 1.5m setback provided by the 26 Second Ave development.

10 Section 79C consideration

10.1 Consideration of the matters prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 are summarised below:

Heads of Consideration 79C	Comment	Complies
a. The provisions of : (i) Any environmental planning instrument (EPI) (ii) Any development control plan (DCP) (iii) The regulations	<p>The provisions of the relevant EPIs relating to the proposed development are summarised under Section 6 of this report. The proposal is considered to be consistent with the relevant EPIs, including the BLEP (CBD) 2012, SEPP (Infrastructure) 2007 and the 10 'design quality principles' of SEPP 65.</p> <p>The proposed development is a permissible land use within the B4 Mixed Use zone and satisfies the zone objectives outlined under the BLEP (CBD) 2012. The proposal does seek to vary the building height control by up to 5.1 m and variation to FSR by 0.33:1 under Clause 4.6 of the BLEP (CBD) 2012. The proposed variation is discussed in detail in Section 8 above and is considered satisfactory.</p> <p>The BDCP 2006 applies to the site. The proposed development is compliant with all of the numerical controls established under the DCP, with the</p>	Yes

Heads of Consideration 79C	Comment	Complies
	exception of podium height, common open space and car parking. The variations are discussed in detail under Section 8 and are considered acceptable by council officers. Given that the non-compliances are considered minor, it is recommended that the development be supported in its current form.	
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	<p>An assessment of the key issues relating to the proposed development is provided under Section 8. It is considered that the likely impacts of the development, including traffic, noise, parking and access, bulk and scale, overshadowing, privacy, stormwater, waste management and the like, have been satisfactorily addressed.</p> <p>A thorough site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties.</p> <p>In view of the above it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.</p>	Yes
c. The suitability of the site for the development	<p>The subject site is zoned B4 Mixed Use with a 72 m building height limit under BLEP (CBD) 2012. Shop top housing is permissible on the site with development consent.</p> <p>The site has an area and configuration that is suited to this form of development. The design solution is based on sound site analysis and responds positively to the different types of land uses adjoining the site. The site's close proximity to the Blacktown train station, Blacktown bus interchange and is located within the Blacktown CBD. The site is also located within close proximity to services, facilities and a major arterial road network also makes this a suitable site for higher residential densities.</p>	Yes
d. Any submissions made in accordance with this Act, or the regulations	3 submissions have been received regarding the proposal. It is considered that the issues raised do not warrant refusal of the application and in many instances can be addressed via suitable conditions of consent.	Yes
e. The public interest	It is considered that no adverse matters relating to the public interest arise from the proposal. The proposal provides high quality housing stock and provides for a wider range of housing diversity within the Blacktown City area.	Yes

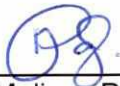
11 Concluding comments

11.1 The proposed development has been assessed against the matters for consideration listed in Section 79C of the Environmental Planning and Assessment Act 1979 and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. Further, the site is considered suitable for the proposed development.

- 11.2 The proposal is consistent with the objectives of Blacktown Local Environmental Plan (Central Business District) 2012 and the B4 Mixed Use zone and is permissible in the zone with development consent. The development meets the requirements of the Blacktown Development Control Plan 2006, and is considered satisfactory with regard to relevant matters such as built form, access, stormwater drainage, site contamination, salinity, social and economic impacts and the like, subject to the imposition of suitable conditions of consent to satisfactorily control the development.
- 11.3 The proposed variations to building height, floor space ratio, building separation, common open space and podium height are considered acceptable. The variations are considered satisfactory based on their merits, impact on adjoining properties and negligible impacts regarding solar access and privacy.

12 Recommendation

- 12.1 The Development Application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at Attachment 1.



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