

Report to Sydney West Joint Regional Planning Panel

JRPP No.	2015SYW183
DA No:	JRPP-15-1865
Proposed Development:	Residential flat building comprising 138 apartments
Development Type:	Capital Investment Value > \$20 million
Lodgement Date:	20 August 2015
Land/Address:	Lots 53-59, DP 14294 and Lot 2, DP 595267 1-11 Olive Street and 17-19 Alice Street, Seven Hills
Land Zoning:	R4 High Density Residential
Capital Investment Value:	\$31,252,522
Applicant:	Civic Properties Group Pty Limited
Report Author:	Rebecca Gordon, Senior Town Planner
Instructing Officers:	Judith Portelli, Manager Development Assessment Glennys James, Director Design and Development
Date Submitted to JRPP:	21 November 2016
Date Considered by JRPP:	15 December 2016



Figure 1 Photomontages (Source: GM Architects 2015)

ASSESSMENT REPORT

CONTENTS

1	Summary	3
2	Location	5
3	Site	6
4	Background	8
5	The proposal.....	8
6	Planning controls	9
7	External referrals	12
8	Internal referrals.....	12
9	Key issues	14
10	Public comment	25
11	Section 79C consideration	32
12	Recommendation.....	32

FIGURES

Figure 1	Photomontages	1
Figure 2	Location map.....	6
Figure 3	Aerial image	7
Figure 4	Zoning extract.....	7
Figure 5	Diagram showing the 3 parts of the building.....	15
Figure 6	Location of objectors' properties	25

ATTACHMENTS

Attachment 1	–	Draft conditions of consent
Attachment 2	–	Applicant's Clause 4.6 request for variation to the building height
Attachment 3	–	Photomontages
Attachment 4	–	Development application plans
Attachment 5	–	Section 79C assessment
Attachment 6	–	Assessment of compliance with SEPP 65 design principles
Attachment 7	–	Assessment of compliance with Apartment Design Guide
Attachment 8	–	Assessment of compliance with Blacktown Local Environmental Plan 2015
Attachment 9	–	Assessment of compliance with Blacktown Development Control Plan 2015
Attachment 10	–	Shadow diagrams
Attachment 11	–	Location of non-complying balconies and recommended design changes
Attachment 12	–	Solar access and cross ventilation calculations

1 Summary

- 1.1 Blacktown City Council is in receipt of a development application (DA) from Civic Properties Group Pty Limited for a 'residential flat building' development on the corner of Olive, Alice and George Streets, Seven Hills. The DA seeks approval for the consolidation of 8 existing lots, demolition of the existing dwellings and structures, removal of 20 trees and construction of a 6 storey residential flat building. The development includes 138 apartments and 3 levels of basement parking for 206 cars. All vehicular access is proposed from Alice Street which is a cul-de-sac road.
- 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 \$31,252,522. While council is responsible for the assessment of the DA, the Sydney West JRPP is the consent authority.
- 1.3 The site is zoned R4 High Density Residential under Blacktown Local Environmental Plan (BLEP) 2015. Residential flat buildings are permissible in the R4 zone with development consent.
- 1.4 The proposal has been assessed against relevant clauses within the applicable environmental planning instruments. The development is considered to satisfy all relevant clauses with the exception of the height standard contained under BLEP 2015. A detailed assessment is undertaken in Section 6 of this report.
- 1.5 A detailed assessment has been undertaken against the provisions of BLEP 2015 and Blacktown Development Control Plan (BDGP) 2015. The development complies with the development standards contained within the LEP with the exception of height. The development complies with the development controls within the DCP with the exception of common open space.
- 1.6 The applicant has lodged a request under Clause 4.6 for a variation to the height standard under BLEP 2015, given that a portion of the building exceeds the permissible 20 m height limit by 2.5 m. The variation, however, is considered acceptable as the additional height is due to the slope of the land, is limited to a portion of the building only and does not result in an additional floor level or any amenity impacts.
- 1.7 The building is made up of 3 distinct parts. There is the portion of the building located on the corner of George and Olive Streets, the portion fronting Alice Street located adjacent to the northern boundary, and the largest section which is located on the corner of Olive and Alice Streets (see Figure 5). In terms of height:
 - a. The portion of the building located on the corner of George and Olive Streets complies with the 20 m height limit except for the lift overrun
 - b. The portion of the building fronting Alice Street, and located immediately adjacent to the northern boundary, is well under the 20 m height limit except for a small portion of the lift overrun
 - c. The portion of the building located on the corner of Olive and Alice Streets does not comply with the maximum height limit. When viewed from Olive Street, only the 2 lift overruns and a minor section of the roof top terrace exceeds the height limit. These encroachments are considered minor. The rear half of this portion of the building, however, exceeds the maximum building height by 2.5 m. This is due to there being an almost 3 m fall across the site. While the building has been stepped in response to the change in levels, it still results in an encroachment to the building height. The encroachment includes the roof terrace, the lift overruns and a small portion of the roof area of the upper floor units.

- 1.8 While the portion of the building located on the corner of Olive and Alice Streets includes a 2.5 m exceedance to the building height, the other 2 portions of the building (excluding the lift overruns) either comply or are below the maximum height limit. The encroachments are also predominantly located in the centre of the site and therefore will have negligible shadow and amenity impacts on surrounding properties. For these reasons it is considered that the variation to the height limit should be supported.
- 1.9 BDCP 2015 requires that a minimum of 5,425 sqm of common open space be provided. Of this, a minimum of 2,170 sqm is to be provided at the ground level behind the building line. The 2,170 sqm requirement is equivalent to 40.5% of the site area and clearly cannot be achieved for this form of development, especially given that this site has 3 street frontages, all of which must be excluded from the open space calculation.
- 1.10 The proposed development provides 2,178 sqm of open space at the ground level, but only 1,236 sqm is located behind the building lines. The amount of 'usable' ground level open space is therefore equivalent to 57% of our DCP requirement. The development site is disadvantaged by its 3 street frontages. If this site had a single street frontage (i.e. if the site only fronted Olive Street being the widest frontage) then the amount of open space that could be achieved on site would be 1,900 sqm. This would be equivalent to 87.5% of our DCP requirement.
- 1.11 While the amount of ground level common open space does not comply with Council's DCP requirement, it does exceed the Apartment Design Guide (ADG) requirement, which is that the common open space area be equivalent to 25% of the site area (i.e. 1,339 sqm). The development provides a total of 4,158 sqm of common open space, including 2,178 sqm at the ground level and 1,980 sqm at the roof top level, and therefore well exceeds the ADG requirement.
- 1.12 Given that the site is located approximately 250 m from Best Road reserve, the applicant will be paying Section 94 contributions towards the provision of open space, on top of the fact that the development will provide well designed north facing common open spaces on site, and that the development complies with the ADG, we consider the variation acceptable.
- 1.13 The minimum open space requirements contained within our DCP were adopted at a time when the maximum permitted height of a residential flat building was only 4 storeys. Under BLEP 2015, buildings in certain locations can now achieve a maximum height of 6 storeys. The additional yield means that the required amount of ground level common open space must also increase. The rates at which it must be provided (i.e. 30 sqm - 55 sqm per unit based on the number of bedrooms), however, cannot be achieved in most instances. This has been recognised during the assessment of other applications and a previous recommendation made to Council was adopted, that amendments be made to Blacktown Development Control Plan 2015 and the Blacktown Growth Centres Development Control Plan 2010 so that the residential flat building controls in these documents align with the 2015 Apartment Design Guide (ADG).
- 1.14 The proposal is consistent with the objectives of SEPP 65 and satisfactorily achieves the 9 'design quality principles' listed under Schedule 1 of the SEPP. Council officers have also assessed the application against the requirements within the ADG. The development complies with the numerical recommendations of the ADG, with the exception of building separation and apartment sizes.
- 1.15 The proposed development does not provide a 9 m setback to some of the balconies at level 5 as required under the ADG. Instead, the proposal provides setbacks of approximately 6 m to the balconies in line with Council's DCP. The required 9 m setback, however, has been provided at the 6th level. To ensure strict compliance with the ADG and eliminate any unfair burden on any adjoining future development, it is recommended that the 5th level be amended to be consistent with the 6th level. Four of the 2 bedroom units are also required to be increased in size by 2 sqm given that the ADG requires that

any unit containing 2 bathrooms must have a minimum floor area of 75 sqm. Given that the balconies for each of these units will exceed the minimum requirements, a minor amendment can easily be achieved. Both of these non-compliances are considered minor design issues. To address the non-compliances, it is recommended that a deferred commencement condition be imposed requiring that amended plans be submitted to Council's Manager Development Assessment for separate approval (**condition 1.1**). The design changes will ensure full compliance with SEPP 65 and the ADG.

- 1.16 The original DA submission was for 146 units. Since lodgement of the DA, however, the proposed development has been amended to 138 units. The amended development was notified to property owners and occupiers within the locality between 2 and 16 March 2016. Six submissions were received. The main grounds for concern relate to height, overshadowing, privacy, character of the area, parking and traffic. The objections raised are not considered sufficient to warrant refusal of the application.
- 1.17 The development is considered satisfactory with regard to relevant matters such as siting and design, bulk and scale, privacy, overshadowing, 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.
- 1.18 It is recommended that the proposed development be approved subject to the conditions at **Attachment 1**.

2 Location

- 2.1 The site is located within the Seven Hills Town Centre. It is identified as a town centre that will support the growth of the City's main centre, which is the Blacktown CBD.
- 2.1 The site is well serviced by public transport. The Seven Hills railway station is located approximately 320 m walking distance from the site. Seven Hills station forms part of the main western line and has historically been a higher order station providing fast and limited stop services to and from the Sydney CBD. Seven Hills railway station also provides a bus interchange facility within Boomerang Place. Other bus stops are located on Prospect Highway, Olive Street, George Street and Best Road, which are all within easy walking distance of the site.
- 2.2 The Seven Hills shopping plaza, which contains Woolworths, Coles, Aldi and smaller speciality stores, is located approximately 250 m from the site. Smaller local shops are also located around the Seven Hills train station and in Best Road. The Seven Hills RSL Club is located 150 m from the site and Best Road reserve is located approximately 250 m away.

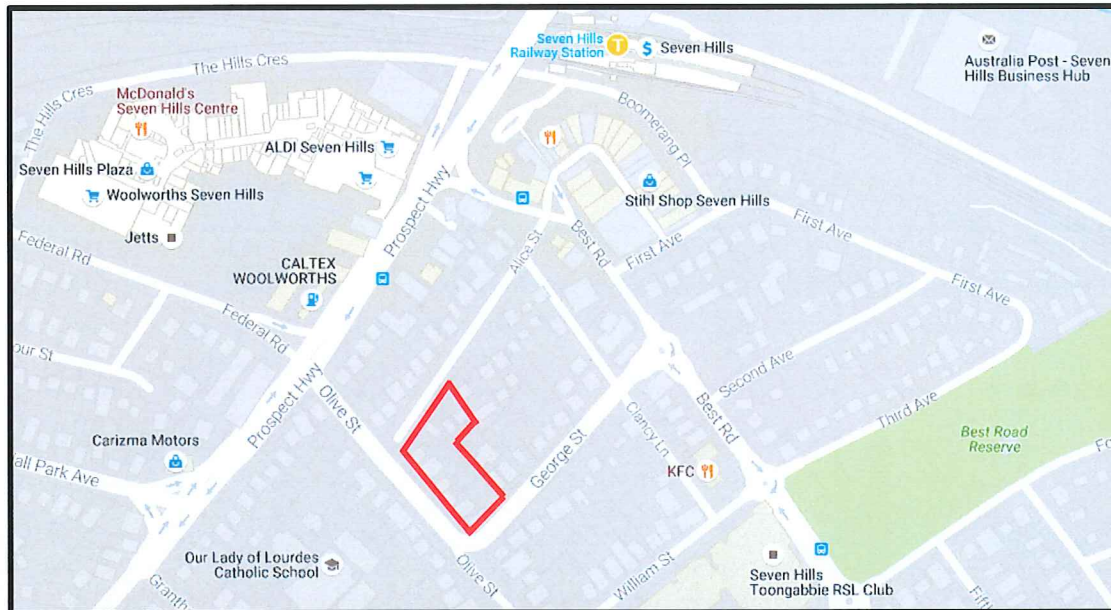


Figure 2 Location map (Source: Google maps 2016)

3 Site

- 3.1 The subject site is known as Lots 53-59, DP 14294 and Lot 2, DP 595267, 1-11 Olive Street and 17-19 Alice Street, Seven Hills.
- 3.2 The site is located on the north-eastern side of Olive Street, between Alice Street and George Street. Alice Street is a cul-de-sac street that is accessed from Best Road.
- 3.3 The site has 3 street frontages and is trapezoidal in shape. The development site will be formed by the consolidation of the 8 lots and will have a frontage of approximately 36 m to George Street, approximately 90 m to Olive Street and approximately 70 m to Alice Street. The total site area will be 5,366 sqm.
- 3.4 The development site has sloping topography of south-west to north-east of approximately 3 m, and a slope along Olive Street of 1.2 m. Each lot currently contains a detached single or 2 storey dwelling, associated outbuildings and vegetation. Due to the sloping topography, the dwellings on Alice Street are located approximately 2.5 m – 3 m below the dwellings on Olive Street.
- 3.5 The site is zoned R4 High Density Residential under Blacktown Local Environmental Plan (BLEP) 2015.
- 3.6 The area immediately to the north and north-east of the site, currently contains single low density residential development including some townhouses. This area, however, is also zoned R4 High Density Residential and is likely to be redeveloped in the future. The site adjoins a road on the other 3 boundaries.
- 3.7 To the south, detached single dwelling houses are located on the opposite side of Olive Street, including several which are located within the grounds of Our Lady of Lourdes Catholic primary school and church. The school and church, however, are orientated away from the development site and are accessed via Grantham Road. The other dwellings to the south of the site are zoned R2 Low Density Residential.
- 3.8 To the east and south-east, on the other side of George Street, is existing residential development. This area is also zoned R4 High Density Residential and is likely to be redeveloped in the future.

- 3.9 To the west and north-west, on the other side of Alice Street, is existing residential development. A row of single storey shops also front Prospect Highway. This area is also located in the R4 High Density Residential zone.



Figure 3 Aerial image, 1 August 2016 (Source: Google maps 2016)

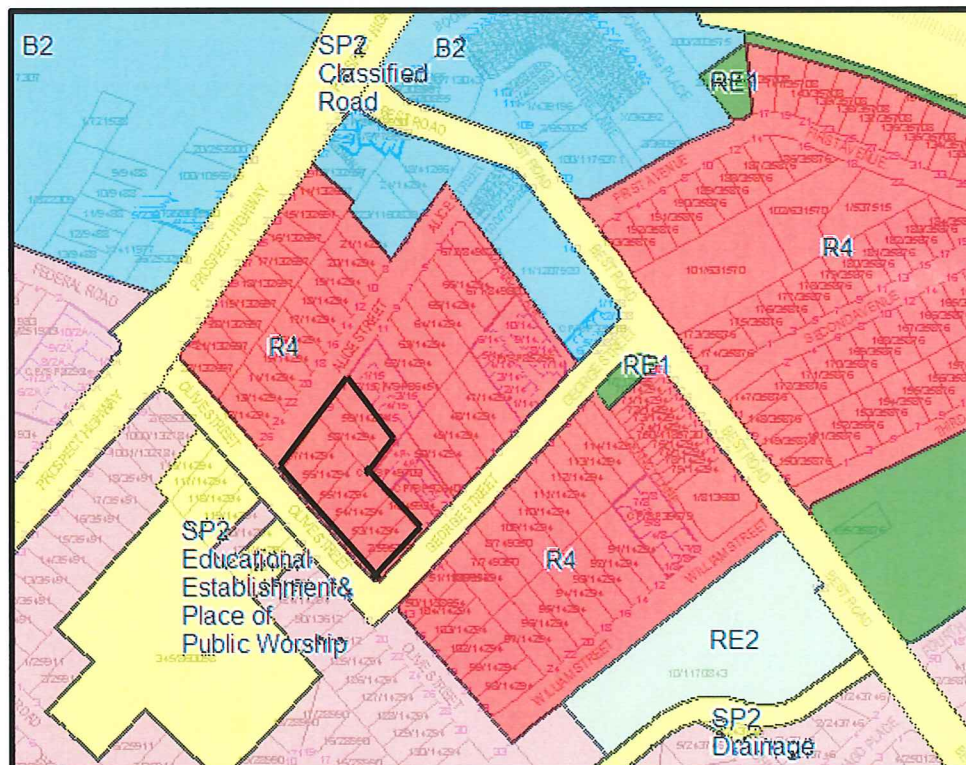


Figure 4 Zoning extract (Source: BCC August 2016)

4 Background

- 4.1 The site and immediate surrounding streets have been rezoned under Blacktown LEP 2015 to R4 High Density Residential. The nearby commercial centre has been rezoned to B2 Local Centre.
- 4.2 The land immediately to the north and on the opposite side of Alice and George Streets currently contains a mix of detached dwelling houses and townhouses. This area has been rezoned under BLEP 2015 to allow high rise residential development and, as a result, is likely to be redeveloped in the near future.
- 4.3 The controls contained within Blacktown Development Control Plan (BDCP) 2015 have been carried across from BDCP 2006 and were originally adopted at a time when residential flat development was limited to 4 storeys in height.
- 4.4 It has been recognised during the assessment of other similar DAs that these controls are now out dated and it has been resolved by Council that both BDCP 2015 and the Blacktown Growth Centres DCP 2010 be amended so that the residential flat building controls in these documents align with the 2015 Apartment Design Guide (ADG).

5 The proposal

- 5.1 The proposal is for the consolidation of 8 existing lots, demolition of existing dwellings and structures, and construction of a 6 storey residential flat building.
- 5.2 The original application included 146 units. Since lodgement of the DA, however, the proposed development has been amended down to 138 units. The development also contains 3 levels of basement car parking and associated landscaping. The unit mix includes 1 studio unit, 22 x 1 bedroom units, 106 x 2 bedroom units and 9 x 3 bedroom units. A minimum of 14 of the units will be adaptable.
- 5.3 The development proposes the removal of 20 trees within both the site and road reserve. Ten replacement street trees will be required as a condition of consent (**condition 7.5.2**). The development also provides 2,178 sqm of communal open space at the ground level (1,236 sqm being behind the building line) and 1,980 sqm at the roof top level. The roof top communal open space area will be embellished with seating, pergolas, sandpits, BBQ facilities, open deck areas, planter boxes, community garden areas and a tool shed. An amphitheatre, with landscaped areas and deep soil tree planting, and a separate resident-only gymnasium and separate community room, are located at the ground floor level.
- 5.4 A total of 206 basement car parking spaces, including 149 resident spaces and 57 visitor spaces, are proposed across 3 levels. A minimum of 14 of the car spaces will be designated as accessible. A car wash has been provided at basement level 3 for the use of all residents. In addition to the car parking spaces, the development also provides 14 motorbike spaces and 85 bicycle spaces. Vehicular access to the site is proposed from Alice Street, which is a cul-de-sac street.
- 5.5 The building has been stepped in response to the land's topography. This means that the building along Alice Street has been able to accommodate a lower ground floor that is at the same level as basement level 1. The building has also been stepped at the upper level to maintain a maximum height of 6 storeys throughout the development.
- 5.6 The maximum building height of the development is 22.5 m. This represents a 2.5 m departure from the 20 m maximum height limit under BLEP 2015. The departure is attributed to the roof features, including the lift overrun, fire stairs, parts of the communal roof terrace, and a small portion of the roof space of the upper floor units. The applicant has lodged a Clause 4.6 request to vary the development standard and is included at

Attachment 2. Council's assessment of this variation is undertaken in Section 9. The variation is considered minor and is supported.

- 5.7 A series of alucobond panelling, rendered and painted finishes, glass balustrades and metal louvres will be provided to break up the built form and provide visual interest and variety to the façade of the building. Photomontages of the proposed development are at **Attachment 3** and the development plans are 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 (EPA) Act 1979

(i) Section 79C of the EPA Act - Evaluation

In determining a development application, a consent authority is to take into consideration the relevant matters listed under Section 79C of the EPA Act. For an assessment against the Section 79C 'Heads of Consideration' refer to **Attachment 5**.

The proposal is considered to be consistent with relevant environmental planning instruments. The likely impacts of the development, including traffic, noise, parking and access, bulk and scale, overshadowing, privacy and waste management, have also been satisfactorily addressed.

Six submissions were received in objection to the development. It is considered that the issues raised do not warrant refusal of the application. The proposal is considered to be in the public interest.

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

(i) Schedule 4A of the EPA Act - Development for which regional panels may be authorised to exercise consent authority functions of councils

The Joint Regional Planning Panel (JRPP) is the consent authority for all development with a Capital Investment Value (CIV) of over \$20 million. The DA has a CIV of \$31,252,522. While council officers are responsible for the assessment of the DA, determination of the application is to be made by the Sydney West JRPP.

(c) State Environmental Planning Policy (Infrastructure) 2007

(i) Clause 104 – Traffic generating development

SEPP (Infrastructure) 2007 ensures that the Roads & Maritime Services (RMS) is given the opportunity to comment on development nominated as 'traffic generating development' under Schedule 3 of the SEPP.

The proposed development is located approximately 100 m from a classified road (i.e. Prospect Highway) and proposes more than 75 dwellings and 50 car spaces. The development is therefore classified as 'traffic generating development' requiring referral to RMS. RMS has reviewed the DA and has raised no objection to the proposal. No recommended conditions or comments were provided by the RMS.

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

(i) Clause 7 – Contamination and remediation to be considered in determining a development application

Under Clause 7 of State Environmental Planning Policy (SEPP) 55, Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given:

- The site has been continuously used for residential purposes
- The adjoining and nearby properties are currently used for residential purposes
- The site and surrounding land has not been previously zoned for industrial or agricultural uses.

On this basis, the site is considered suitable for continued residential use. As part of any consent, however, standard conditions will be imposed to prevent illegal dumping of material and to address any unforeseen contaminated material unearthed during construction (**condition 12.10**).

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

State Environmental Planning Policy No. 65 (SEPP 65) – *Design Quality of Residential Apartment Development* applies to the assessment of development applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.

(i) Clause 28 Determination of development applications

Clause 28 of SEPP 65 requires a consent authority to take into consideration:

- (a) the advice (if any) obtained from the design review panel
- (b) the design quality of the development when evaluated in accordance with the design quality principles
- (c)

Blacktown City Council does not have a design review panel. However, as part of the submission requirements, the DA must provide a design verification statement by a registered architect addressing the 9 'design quality principles' prescribed by the SEPP. Council's assessing officer's comments in relation to the submission is provided at **Attachment 6**. The proposal is consistent with the objectives of SEPP 65 and satisfactorily achieves the 9 'design quality principles'.

(f) Apartment Design Guide (ADG)

(i) Clause 28 Determination of development applications

Clause 28 of SEPP 65 requires a consent authority to take into consideration:

- (a)
- (c) the Apartment Design Guide.

Council's assessing officer's assessment against the relevant design concepts and numerical guidelines of the ADG is held at **Attachment 7**.

The development complies with the numerical recommendations of the ADG, with the exception of building separation and apartment sizes. To achieve compliance with the ADG and to eliminate any unfair burden on any adjoining future

development, it is recommended that minor amendments be made to the proposed plans. The non-compliances and recommended deferred commencement conditions of consent are discussed in Section 9.

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

A BASIX Certificate has been lodged as part of the DA. The BASIX Certificate indicates that the development has been designed to achieve the required water, thermal comfort and energy scores. A suitable condition will be imposed on the consent requiring compliance with the submitted BASIX Certificate (**condition 8.4.1**).

(h) Blacktown Local Environmental Plan (BLEP) 2015

(i) Clause 2.3 Zone objectives and land use table

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The subject site is zoned R4 High Density Residential under BLEP 2015. A residential flat building, defined as a building containing 3 or more dwellings, but does not include an attached dwelling, a manor home or multi dwelling housing, is permissible within the zone with consent. The proposal is defined as a residential flat building and the development meets the objectives of the zone.

(ii) Clause 4.6 Exceptions to development standards

Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant has made a written request that has adequately addressed the non-compliance, that compliance is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The consent authority must also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objective of the zone.

Attachment 8 provides an assessment of the proposal against the requirements of BLEP 2015. The development complies with the development standards contained within BLEP 2015 with the exception of building height.

The applicant is seeking an exemption under Clause 4.6 to the building height development standard. A copy of the applicant's Clause 4.6 variation request is provided at **Attachment 2**, while an assessment against the development standard is discussed in detail in Section 9. The applicant's written request has adequately justified that compliance with the height standard is unreasonable and unnecessary in this instance. The requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.

(iii) Clause 4.6 (7)

After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request.

This clause is satisfied through the preparation of this planning report.

(i) **Blacktown Development Control Plan (BDCP) 2015**

BDCP 2015 applies to the site. **Attachment 9** provides a table that outlines the proposal's compliance with BDCP. The development complies with the development controls with the exception of common open space. The variation is discussed in detail in Section 9. The common open space provision proposed is considered acceptable given that it complies with the requirements of the ADG.

- 6.2 Council's assessing officers consider that the development satisfies the relevant clauses within the applicable environmental planning instruments.

7 External referrals

- 7.1 The DA was referred to external authorities as summarised below:

Section	Comments
Roads and Maritime Services (RMS)	The RMS has reviewed the application and raises no objection to the DA. No recommended conditions or comments were provided by the RMS.
Endeavour Energy	While there are no electricity easements over the development site, Endeavour Energy has advised that there is significant electricity infrastructure within the Alice Street road frontage. Endeavour Energy has no objection to the proposed development, but has provided general advice about asset relocation, safety clearances, vegetation management and public safety. The information provided by Endeavour Energy will be forwarded to the applicant with any consent granted. It is recognised that a new electricity substation may also be required as part of the redevelopment of the site. An indicative location has therefore been shown on the plans. As part of any consent granted, the applicant will be required to make separate application to Endeavour Energy for servicing of the building.
NSW Police	The applicant's completed Crime Prevention Through Environmental Design (CPTED) checklist was forwarded to the Blacktown Local Area Command (LAC) for review. Local Police have raised no objection to the development subject to standard conditions being imposed on any consent to ensure compliance with identified CPTED items (condition 7.6).

8 Internal referrals

- 8.1 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 objection subject to appropriate conditions, including conditions to address drainage and the required 5 m x 5 m splays at each road intersection (conditions 10.2.3, 10.3, 10.5 and 10.11). Contributions Plan (CP) 19 applies and came into force on 30 September 2015. Under this CP, a contribution is made towards regional water quality infrastructure. The relevant contribution will be imposed as a condition of consent (condition 7.1).

Section	Comments
Building	Council's Building Section has reviewed the DA and raises no objections subject to conditions, including conditions to address the demolition of the existing dwellings and structures on site. An access report has also been prepared for the development to determine whether the proposal will meet the relevant requirements for access for people with a disability. The assessment concludes that the proposal can achieve compliance with the access provisions of the BCA and AS 4299 Adaptable Housing.
City Architect	The building has been architecturally designed by a registered architect and is supported by a design verification statement in accordance with the requirements of SEPP 65. A series of alucobond panelling, rendered and painted finishes, glass balustrades and metal louvres will be provided to break up the built form and provide visual interest and variety to the façade of the building. Photomontages showing the patterns, colours and finishes are at Attachment 3. Council's City Architect has also reviewed the DA plans and has advised that the building has an acceptable standard of overall design. He considers that while the building is big, it is well articulated. As part of any development consent, however, our City Architect has suggested that the following condition be imposed: <i>Soil fill should be used to batter between the existing ground levels around the site perimeter and the various proposed finished levels of the ground floor, such that the top edges of the basement walls do not protrude above the finished ground level. Prior to release of a Construction Certificate for the building works, a detailed plan that shows finished ground levels relative to adjacent ground floor slab levels is to be submitted to Council's Manager Development Assessment for separate approval (condition 7.4.1).</i>
Tree Management	Council's Tree Management Coordinator has raised no objection to the removal of 20 trees, including the removal of 2 trees from Council's road reserve. Suitable conditions in relation to replacement street tree planting and the associated tree bonds have been provided (conditions 7.5.1 and 7.5.2). A detailed landscape plan will also be required for the embellishment of the site with mature tree species (condition 7.4.3). Suitable conditions will be imposed on any consent to address these matters. Further details are also provided at Section 9 of this report.
Traffic Management Services (TMS)	An assessment of the proposed parking and access arrangements is provided in Section 9. The development provides a surplus of car parking spaces and the surrounding road network is capable of accommodating the additional traffic generated by the proposal. In relation to the suitability of the proposed vehicular access arrangements from Alice Street, Council's TMS was asked to consider whether it would be desirable to provide an additional vehicular access driveway off Olive Street. Given the presence of the traffic signals at Prospect Highway and the dangerous bend at George Street, it was decided that it was better to not provide a driveway from Olive Street. It is Council's Traffic Engineer's opinion that the applicant has provided the safest option by providing sole access from Alice Street.

Section	Comments
Waste Services	Following various amendments and requests for information, Council's Waste Services Section is now satisfied that the proposal will provide suitable waste collection arrangements. The upper basement level has been provided with a 3.5 m ceiling clearance height and has been designed to accommodate the on-site waste and recycling collection needs of the development, will allow private garbage truck vehicles to enter and exit in a forward direction and provides a separate caged bulky waste storage area. Council's Waste Services Section raises no objection to the proposal subject to conditions requiring that all waste be collected by a private contractor and that suitable arrangements for waste collection be included within the strata management agreement for the building (conditions 14.22.4 to 14.22.6).
Environmental Health Section	Council's Environmental Health Section has reviewed the DA and raises no objections, subject to the recommendations of the submitted acoustic assessment being imposed as conditions of consent (condition 9.1.1). Further details about the proposed acoustic measures are provided in Section 9.
Strategic	Council's Strategic Planning Section has raised no objection to the DA. No comments or recommended conditions of consent were provided by the strategic planners.

9 Key issues

9.1 Variation to BLEP 2015 development standards

Following is a summary of the development standards under BLEP 2015 and how the proposal responds to the height standard.

BLEP 2015	Required	Proposed	Compliance
Clause 4.3 Height	20 m	22.5 m point exceedance only (measured to the top of the lift overrun)	No However, a Clause 4.6 variation request has been submitted. See assessment below.
Clause 4.4 Floor space ratio	N/A There is no FSR control under BLEP	N/A	N/A

(a) Building height variation

The maximum permissible height on the site under BLEP 2015 is 20 m. A portion of the building exceeds the permissible height limit by up to 2.5 m.

The building is made up of 3 distinct parts. There is the portion located on the corner of George and Olive Streets, the portion fronting Alice Street located adjacent to the northern boundary, and the largest section which is located on the corner of Olive and Alice Streets (see Figure 5). The roof plan included at **Attachment 4** also shows how the building is divided up into 3 parts.

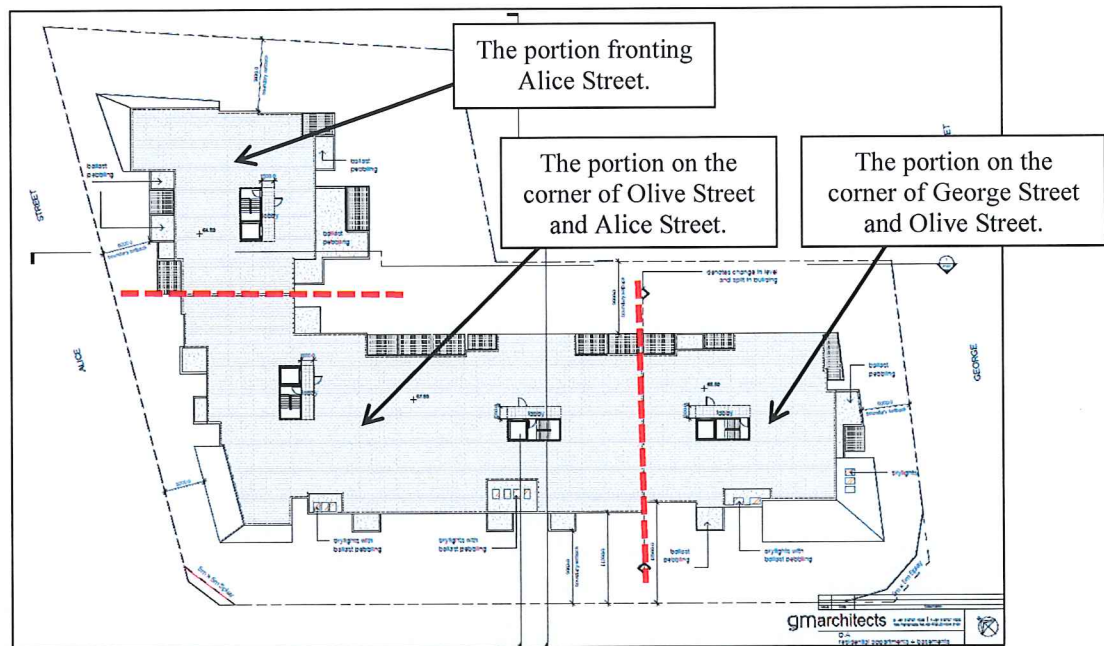


Figure 5 Diagram showing the 3 parts of the building (Source: GM Architects 2015)

In terms of height:

- The portion of the building located on the corner of George and Olive Streets complies with the 20 m height limit except for the lift overrun
- The portion of the building fronting Alice Street, and located immediately adjacent to the northern boundary, is well under the 20 m height limit (by up to 1.5 m) except for a small portion of the lift overrun
- The portion of the building located on the corner of Olive and Alice Streets does not comply with the maximum height limit. When viewed from Olive Street, only the 2 lift overruns and a minor section of the roof top terrace exceeds the height limit. These encroachments are considered minor. The rear half of this portion of the building, however, exceeds the maximum building height by up to 2.5 m. This is due to there being an almost 3 m fall across the site. While the building has been stepped in response to the change in levels, it still results in an encroachment to the building height. The encroachment only includes the roof top terrace, the lift overruns and a small portion of the ceiling area of the upper floor units.

The portion of the building located on the corner of Olive and Alice Streets includes an exceedance to the building height by up to 2.5 m. The additional height is due to the slope of the land, is limited to a portion of the building only, and does not result in an additional floor level. The proposed number of storeys, being 6 in total, is consistent with other residential flat developments in the 20 m height limit area. The encroachment is also limited to the centre of the site and will have negligible shadow and amenity impacts on surrounding properties. For these reasons it is considered that the proposed variation to the height standard should be supported.

The other 2 portions of the building (excluding the lift overruns) either comply or are below the maximum height limit. Council officers have consistently supported a variation to the maximum height limit to accommodate roof top facilities and these minor encroachments are considered acceptable.

(b) Clause 4.6 – variation to the development standard

The applicant has submitted a request under Clause 4.6 of BLEP 2015 for a variation to the 20 m height standard. The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from the development by allowing flexibility in particular circumstances.

Clause 4.6 requires consideration of the following:

1. *Has the applicant submitted a written request 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?*
2. *Is the proposed development 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?*
3. *Has the concurrence of the Director-General been obtained?*

The applicant's written request has adequately justified that compliance with the height standard is unreasonable and unnecessary in this instance. There are sufficient environmental planning grounds to justify varying the development standard. A copy of the applicant's written request is held at **Attachment 2**.

The variation will not have an unreasonable impact on neighbouring properties or the character of the area. The proposal is also consistent with the objectives of the development standard and the R4 High Density Residential zone.

In accordance with Clause 64 of the Environmental Planning and Assessment Regulation 2000, a consent authority, in this case the JRPP, has 'assumed concurrence' for this matter from the Secretary (formerly the Director-General) of the Department of Planning and Environment.

(c) Justification for the variations

The Land and Environment Court has established the following 5-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

• Height

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 20 m. Although the development exceeds the permissible height in part by 2.5 m, the development does not achieve an additional residential level. The increase in height therefore does not impact on the density/floor area of the development. The increased height also has no impact on the scale of the development. The additional height is limited to a portion of the building only, including lift overruns, parts of the roof top terrace and a small portion of the ceiling area of some of the upper floor units, and is mainly due to the slope of the land.
 - **Public areas**
The development exceeds the 20 m height limit by 2.5 m, but approximately half of this is attributed to the roof top features including the lift overruns. Council officers have consistently supported a variation to the maximum height limit to accommodate roof top facilities. Elimination of the common open space at the roof level (and the required lift access) would not be a good design outcome and would reduce the future occupants' recreation options.
 - **Solar access to buildings and open space of adjoining development and land**
The overshadowing caused by the non-complying lift overruns is captured within the roof space itself. The remaining part of the height encroachment is predominantly limited to the centre of the site and will have a negligible shadow impact on surrounding properties. The shadow impacts are shown at **Attachment 10** and are considered acceptable given that they impact predominantly on the front yards of opposite dwellings and are limited to the early morning hours only.
 - **Range of building heights in appropriate locations**
The site is considered suitable for the development given its proximity to the Seven Hills railway station and Town Centre. The additional height does not result in any additional yield and does not result in an additional storey. The proposed number of storeys, being 6 in total, is

consistent with other residential flat building developments proposed in the 20 m height limit areas. A reduction to the height of the building would compromise the design of the building and would make access into the site difficult given the 3 m fall across the site, because the basement carpark entry would be well below street level and would result in a driveway gradient that is too steep for cars and garbage trucks.

- **Privacy impacts**

The building height variation does not result in any additional privacy impacts on adjoining properties. The part of the building which exceeds the building height standard is located on the corner of Olive and Alice Streets. This part of the building is well separated from the single and 2 storey detached dwellings located in the R2 Low Density Residential zone on the opposite side of Olive Street. It is also well separated from any future residential flat development to the north of the site or on the opposite side of Alice Street.

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 this circumstance 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. The objectives of the standard, as outlined above, will still be achieved despite the variation.

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

Minor variations to the height standard have been previously supported in the R4 High Density Residential zone. Council officers have consistently allowed the lift overrun/s and roof top area of residential flat building development to encroach above the permissible height limit.

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 site currently contains 8 dwellings which will be deleted to accommodate the development. Full compliance with the height control can therefore be achieved. The variation, however, does not increase residential density and does not have any impact on the number of storeys that can be achieved. Given the site's context within the Seven Hills Town Centre, a variation in order to add to the recreation options of the future occupants and respond to the slope of the land is considered acceptable.

Based on the above assessment, the requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.

9.2 Variations to BDCP 2015 requirements

The provisions of the Blacktown Development Control Plan 2015 (BDCP) Part C – Development in the Residential zones apply. The table at **Attachment 9** demonstrates that the proposal is compliant with the BDCP with the exception of common open space as outlined below.

(a) Common open space

In accordance with the DCP, common open space for the use of all residents is to be provided at the minimum rate of:

- 30 sqm for each 1 bedroom unit
- 40 sqm for each 2 bedroom unit
- 55 sqm for each 3 bedroom unit.

Based on these rates, the proposed development requires a minimum of 5,425 sqm of common open space. Of this, a minimum of 2,170 sqm is to be provided at the ground level behind the building line. The 2,170 sqm requirement is equivalent to 40.5% of the site area and clearly cannot be achieved for this form of development, especially given that this site has 3 street frontages, all of which must be excluded from the open space calculation.

The proposed development provides 2,178 sqm of open space at the ground level, but only 1,236 sqm is located behind the building lines. The amount of 'usable' ground level open space is therefore equivalent to 57% of our DCP requirement. The development site is disadvantaged by its 3 street frontages. If this site had a single street frontage (i.e. if the site only fronted Olive Street, being the widest frontage) then the amount of open space that could be achieved on site would be 1,900 sqm. This would be equivalent to 87.5% of our DCP requirement.

While the amount of ground level common open space does not comply with Council's DCP requirement, it does exceed the Apartment Design Guide (ADG) requirement that the common open space area be equivalent to 25% of the site area (i.e. 1,339 sqm). The ADG does not exempt setback areas from being counted as common open space. The ADG control is significantly different to the DCP requirement. The development provides a total of 4,158 sqm of common open space, including 2,178 sqm at the ground level and 1,980 sqm at the roof top level, and therefore exceeds the ADG requirement by more than 3 times.

Given that the site is located approximately 250 m from Best Road reserve, that the applicant will be paying Section 94 contributions towards the provision of further open space, that the development provides well-designed north facing common open spaces on-site and that the development complies with the ADG, we consider the variation to be acceptable.

The minimum open space requirements contained within our DCP were also adopted at a time when the maximum permitted height of a residential flat building was only 4 storeys. Under BLEP 2015, buildings can now achieve a maximum height of 6 storeys. The additional yield means that the required amount of ground level common open space must also increase. The rates at which it must be provided (i.e. 30 sqm - 55 sqm per unit based on the number of bedrooms), however, cannot be achieved in most instances. This has been recognised during the assessment of other similar applications and a previous resolution has been made by Council that amendments be made to Blacktown Development Control Plan 2015 and the Blacktown Growth Centres Development Control Plan 2010 so that the residential flat building controls in these documents align with the 2015

Apartment Design Guide (ADG). This will be reported to Council for adoption in early 2017.

9.3 Variations to the Apartment Design Guide

SEPP 65 requires that, when assessing an application, consideration must be given to the requirements of the Apartment Design Guide (ADG). Council's officer assessment against the relevant design concepts and numerical guidelines of the ADG is held at **Attachment 7**. The development complies with the ADG with the exception of proposed building separation and apartment sizes, as discussed below.

(a) Building separation

Under the ADG the building separation controls increase as the height of the development increases as follows:

- i. For the first 4 storeys, a 12 m separation is required between any habitable room or balcony (i.e. between the subject development and any existing or future adjacent apartment building).
- ii. For levels 5 to 8, an 18 m separation is required between any habitable room or balcony (i.e. between the subject development and any existing or future adjacent apartment building).

For this development, the minimum building setback to a side or rear boundary is therefore half of the above building separation requirements. The minimum boundary setback requirement is 6 m for the first 4 levels and 9 m for the upper 2 levels.

While the proposed setbacks comply with the minimum requirements of Council's DCP (being a 6 m setback to the building and a 5 m setback to the balconies at all 6 levels), they do not strictly comply with the minimum requirements of the ADG. This is because several of the balconies at the first 5 levels encroach into the minimum setback area. The setbacks to the building and to the balconies at the 6th level, however, comply with the ADG requirement. **Attachment 11** provides details of the encroaching balconies at the first 5 levels. These are also described below.

The first 4 levels satisfy the minimum 6 m boundary setback requirement, with the exception of the following balcony encroachments:

- The portion of the building fronting Alice Street contains a large wraparound balcony on the north-west corner. Instead of providing a 6 m setback at the first 4 levels, the balconies are setback 5 m as per Council's DCP. The portion of the balcony fronting Alice Street (which is the development's secondary street frontage) is considered satisfactory as it will not impact on the privacy of any future adjoining residential flat development. This is because any adjoining development will be required to provide a 9 m front building setback (not a 6 m secondary street setback), and this balcony will be located forward of any future adjoining unit.
- The other 2 balconies located adjacent to the northern boundary, and a small portion of the wraparound balcony, encroach to a very small extent within the minimum 6 m building setback area. As the encroachments are considered very minor, subject to suitable privacy screens being provided they are considered acceptable. The requirement for privacy screens is addressed as a condition (**condition 1.1.1 (a)**).

The upper 2 levels satisfy the minimum 9 m building setback requirement, with the exception of the following encroachments:

- The portion of the building fronting Alice Street contains a large wraparound balcony on the north-west corner of the building at the 5th level. As with levels 1 to 4, the portion of the balcony located forward of any future adjoining development's 9 m building line is satisfactory. However, it is recommended that the remaining portion of the balcony be deleted and replaced with ballast pebbling similar to that provided outside the adjacent units, because this portion of the balcony encroaches into the setback area by up to 4 m. This will be addressed as a deferred commencement condition of consent (**condition 1.1.1(b)**).
- The portion of the building fronting George Street provides a 6 m setback from the northern boundary to the balconies of 2 units at the 5th level (units 128 and 129). An adjacent unit (96) is also provided with a 6 m setback to the northern boundary. The required 9 m setback, however, has been provided at the 6th level (i.e. for the units immediately above). To ensure strict compliance with the ADG and eliminate any unfair burden on any adjoining future development, it is recommended that these 3 units at the 5th level be amended to be consistent with those immediately above at the 6th level. This will ensure strict compliance with the ADG. This will be addressed as a deferred commencement condition of consent (**condition 1.1.1(c)**).

The proposed amendments to the design will be addressed as 'deferred commencement' conditions of consent and will ensure that the development is provided with satisfactory setbacks to the side and rear boundaries.

It is also recommended that unit 100 at the 6th level be amended to provide a larger living/dining area and a projecting balcony (i.e. similar to unit 95 at the 5th level). A projecting balcony in this location would not impact on the building separation requirements, and provides an opportunity to enlarge the living area of the unit. The recommended changes are also shown on the plans at **Attachment 11**. This will also be included as a deferred commencement condition (**condition 1.1.1(d)**).

(b) Apartment sizes

The ADG requires that any unit containing 2 bathrooms must have a minimum floor area of 75 sqm. To ensure strict compliance with this requirement, it is recommended that 4 of the 2 bedroom units be increased in area from 73 sqm to 75 sqm. The 4 units are nominated on the plans at **Attachment 11**. Given that the balconies for each of these units will exceed the minimum requirements, a minor amendment can easily be achieved. This will be included as a deferred commencement condition (**condition 1.1.1(e)**).

As part of the assessment process, the above amendments to the apartment sizes and balconies were discussed with the applicant and no objection was raised to these matters being addressed as conditions of consent (**conditions 1.1.1(a) to (e)**).

The non-compliances are considered minor design issues. The design changes will ensure that the development is consistent with the requirements of SEPP 65 and the ADG.

9.4 Additional planning matters

An assessment of other key issues relating to the proposed development is provided below.

(a) Parking

Following is a summary of the car parking requirements that apply to the development.

	Residential (1 studio, 22 x 1 bed, 106 x 2 bed and 9 x 3 bed)	Visitor parking (for 138 units)	TOTAL Required
Requirement under Council's DCP	1 space per 1 or 2 bed 2 spaces per 3 bed = 147 spaces	1 space per 2.5 units = 56 spaces	203
Requirement under the RMS Guide	0.6 spaces per 1 bed 0.9 spaces per 2 bed 1.4 spaces per 3 bed = 122 spaces	1 space per 5 units = 28 spaces	150

Based on Council's parking rates above, the proposed development requires 203 off-street car parking spaces. Clause 30 of SEPP 65 states, however, that car parking only needs to comply with the minimum parking requirements specified in the RMS 'Guide to Traffic Generating Developments', which is significantly less than Council's DCP requirement. If the number of car spaces complies with the RMS rate, then the development cannot be refused on the grounds of parking.

The Seven Hills Town Centre is defined as a 'metropolitan sub-regional centre' and the parking rates of 0.6 spaces per 1 bedroom unit, 0.9 spaces per 2 bedroom unit, 1.4 spaces per 3 bedroom unit, and 1 visitor space per 5 units, must be applied as a minimum to this development. Based on the RMS parking rates, the development only requires 150 off-street car parking spaces.

The development proposes 206 car parking spaces across 3 basement levels and therefore provides a surplus of 56 spaces. The proposed parking arrangements are considered satisfactory for this location.

(b) Vehicular access and traffic

All vehicular access is proposed via a combined ingress/egress driveway in Alice Street. No vehicular access is proposed to/from George Street or Olive Street.

A Traffic Report, prepared by Thompson Stanbury Associates, has been submitted as part of the DA. The traffic assessment has calculated the likely traffic generation from the proposed development and has assessed the ability of the surrounding road network to accommodate this additional traffic. The report has also looked at the suitability of the proposed vehicular access arrangements from Alice Street, having regard to the local traffic conditions and the traffic likely to be generated from the development.

Based on the Roads and Maritime Services (RMS), in their *Guide to Traffic Generating Developments* (2002) traffic generation rates, the proposed development is expected to generate approximately 210 daily vehicle trips, with approximately 27 vehicle trips in the AM peak and approximately 21 vehicle trips in the PM peak.

All traffic will be required to utilise the intersection of Best Road and Alice Street, with movements out of Alice Street to Best Road representing approximately 1 vehicle every 2 minutes during the peak hour period. The applicant's traffic consultants observed during peak hour periods that there were frequent gaps of adequate duration along Best Road to allow these movements to occur with relative efficiency. The traffic consultants consider that the additional movements out of Alice Street will not impose any material impact on the operational efficiency of the Best Road/Alice Street intersection.

Right turn movements from Best Road into Alice Street are expected to be in the order of 7 evening peak hour vehicles, representing approximately 1 vehicle every 9 minutes. The applicant's traffic consultant's observations of Best Road in the evening peak hour period

identified that there were frequent gaps in the traffic flow such that right turn movements into Alice Street could occur relatively efficiently. It was also noted that the width of the south-east bound carriageway of Best Road at Alice Street is approximately 6.5 m wide. This width provides the opportunity for vehicles to pass those vehicles that may be queued waiting to turn into Alice Street. The impact of the additional right turn movements from Best Road to Alice Street on the overall efficiency of Best Road's traffic flow will therefore be negligible.

In pre-lodgement discussions, Council officers identified that consideration must also be given to the 'environmental capacity' of Alice Street, given that Alice Street is a cul-de-sac and given that all vehicular access is proposed to/from this street. Environmental capacity refers to the theoretical traffic volume capacity of lower order roads in the road hierarchy, taking into consideration matters of residential amenity and traffic safety.

The RMS *Guide to Traffic Generating Developments* establishes desirable and theoretical maximum peak hour volumes for roads, depending on their order in the road hierarchy. Alice Street can be defined as a local street, therefore having an environmental goal of 200 peak hour vehicles and a theoretical maximum of 300 peak hour vehicles. With an additional 27 morning peak hour vehicles and 21 afternoon peak hour vehicles generated by the subject proposal, post development traffic volumes on Alice Street have been forecast to be in the order of 47 in the morning peak hour period and 61 in the afternoon peak hour period, both of which are well below the environmental goal of 200 peak hour vehicles established by the RMS. Upon full development of Alice Street with high density residential flat buildings, the number of peak hour vehicle movements will still be well below the RMS environmental goal of 200 peak hour vehicles.

Given the concerns raised during the public exhibition period, Council's traffic engineers were asked to consider whether it would be desirable to provide an additional vehicular access driveway off Olive Street. Given the presence of the traffic signals at Prospect Highway and the dangerous bend at George Street, it was determined, however, that it was better to not pursue an additional access point from Olive Street. It is Council's traffic engineer's opinion that the applicant has provided the safest option by providing sole access from Alice Street. The traffic report also satisfactorily demonstrates that the additional traffic from the proposed development is unlikely to impact on the efficiency of Alice Street or its intersection with Best Road, and will not noticeably affect residential amenity.

The RMS also reviewed the proposal and raised no objection to the DA. The RMS provided no comments or recommended conditions of consent.

(c) Acoustic

An acoustic assessment, prepared by Acoustic Logic, has been submitted as part of the DA. As required by Clauses 87 and 102 of State Environmental Planning Policy (Infrastructure) 2007, the acoustic assessment has considered the potential noise impacts from both road and rail. As the development will be used for residential purposes, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

"(a) in any bedroom in the building: 35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40 dB(A) at any time".

All external walls and the roof are proposed to be constructed of masonry or concrete elements and will therefore not require any acoustic upgrading. Traffic noise, however, has the potential to transfer through the windows and doors. To address potential noise concerns, the report has recommended that appropriate acoustic treatment, in the form of

external glazing and acoustic seals, be provided to ensure that a reasonable level of amenity is achieved for future residents. The recommended glazing has been based on the orientation of windows, barrier effects (where applicable), the total area of glazing, facade transmission loss and the likely room sound absorption characteristics and ranges

Provided that the recommended treatments (set out in Section 5 of the acoustic report) are implemented, the acoustic consultant has concluded that the internal noise levels will comply with the requirements of SEPP (Infrastructure) 2007 and the NSW Department of Planning's 'Development Near Rail Corridors and Busy Roads (Interim Guideline)'. Suitable conditions will be imposed on the consent to ensure compliance with the recommendations of the acoustic assessment and the specified glazing thicknesses **(condition 9.1.1 (a) to (c))**.

The acoustic assessment also looked at the potential impact of any required mechanical plant on the nearest residential receivers on the adjacent and rear lots. The main mechanical sources associated with the development will include the external air conditioning condensers and the carpark exhaust fan.

As these mechanical plant items have not yet been selected, the acoustic assessment recommends that a detailed review of all external mechanical plant be undertaken at the Construction Certificate stage (i.e. once plant selections and locations are finalised). Standard acoustic treatments, such as noise screens, enclosures, in-duct treatments (silencers/lined ducting) or similar, can then be determined and applied at this stage. It is recommended that an appropriate condition be imposed on the consent to address this matter **(condition 9.1.1 (d and e))**.

(d) Solar access and cross ventilation

The original DA submission was for 146 units. An assessment of those plans established that only 40% of the proposed units achieved 2 hours of solar and daylight access under the Apartment Design Guide (ADG), instead of the required 70%. This was because many of the units were shaded by blade walls or the other sections of the building. Furthermore, only 43% of the units achieved adequate cross ventilation. This was significantly less than the required 60% under the ADG.

In response to Council officer concerns about solar access and ventilation, the applicant submitted amended plans proposing 138 units (i.e. the deletion of 8 units). A separate solar access and cross ventilation study was also submitted and is included at **Attachment 12**. The study demonstrates that the amended proposal now achieves full compliance with the requirements of the ADG, with 72% of the units receiving at least 2 hours of solar access and 61% of the units achieving adequate cross ventilation.

(e) Trees

An arboricultural impact assessment, prepared by Redgum Horticultural, was submitted as part of the DA. The report considers a total of 27 trees, including 19 within the site and 8 on the adjacent road reserve. The proposal seeks to remove 20 of these trees.

The report recommends that 2 of the trees, which are located on Council's road reserve, be removed independent to the proposed development due to the evidence of fungus which is creating structural weaknesses within the trees. The other 18 trees are located within the proposed building footprint and therefore are not able to be retained. The report recommended that these trees be removed and replaced with advanced specimens in 75 or 100 litre bag size stock within more appropriate positions within the streetscape. Replacement of these specimens needs to be mindful of their spatial requirements to allow them to grow to maturity and not be impeded by the building.

The report was referred to Council's Tree Management Coordinator for review. No objection has been raised to the removal of the 20 trees, including the 2 trees located within Council's road reserve, subject to additional street tree planting being undertaken.

As a condition of consent, a total of 10 new street trees will be required to be planted on Council's nature strip (**conditions 7.5.1 and 7.5.2**). Prior to the release of any Construction Certificate, street tree planting details will need to be submitted to Council's Tree Management Coordinator for separate approval. A detailed landscape plan for the site, prepared in accordance with the recommendations of the arboricultural impact assessment, will also need to be submitted for the separate approval of Council's Manager Development Assessment and completed prior to issue of any Occupation Certificate.

10 Public comment

- 10.1 Following submission of the amended plans (i.e. for the deletion of 8 units), the DA was notified to adjoining and nearby property owners and occupants from 2 to 16 March 2016. An advertisement was also placed in the local newspaper and a notification sign was displayed on site.
- 10.2 In response to the public notification, 6 submissions were received objecting to the proposal. Figure 6 below identifies the location of the objectors' properties.

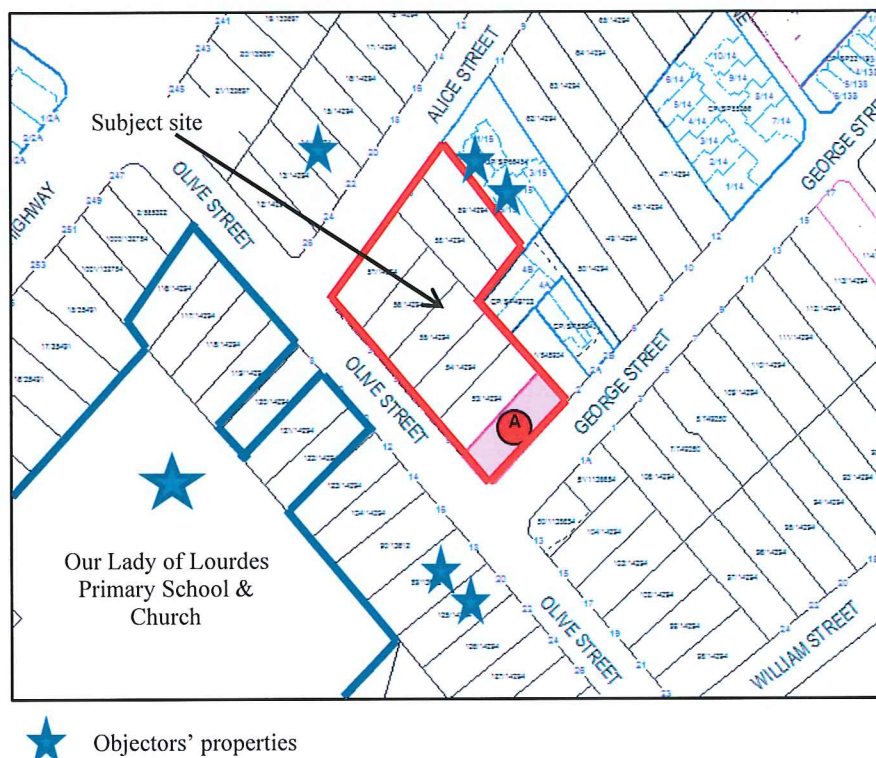


Figure 6 Location of objectors (Source: BCC, 2016)

- 10.3 Below is a summary of the concerns raised and our response:

10.3.1 Character of the area

The development exceeds the bulk, scale, built form and intensity of the existing neighbourhood. The proposal is not in keeping with Council's intended character for the area. The local area currently consists of 1 and 2 storey houses and townhouses. Having a 6 storey flat building right in the middle of the area does not 'fit in' at all.

Town planning comment:

- The existing neighbourhood currently contains single low density residential development, including some townhouses. The site has been zoned R4 High Density Residential under Blacktown LEP 2015. The area

immediately to the north, east and west is also zoned R4 High Density Residential and is likely to be redeveloped in the near future. The subject site is one of the first to be developed for high density residential apartments in the Seven Hills Town Centre since the land was rezoned under BLEP 2015. A development application, however, has been recently lodged for a similar high density residential development immediately on the site to the north in George Street.

- The proposed development is permissible in the zone with consent and is compliant with the zone objectives. The proposed development is reflective of the desired future character, which is an emerging high density residential area.
- On the opposite side of Olive Street are single detached dwellings, including several which are located within the grounds of Our Lady of Lourdes Catholic primary school and church. The dwellings to the south are zoned R2 Low Density Residential and cannot be redeveloped for high density residential purposes.

10.3.2 Building envelope and height

The non-compliant height of the terrace will result in total overlooking of the private open space of most adjoining and opposite residences. The Trustees Roman Catholic Church of the Diocese of Parramatta will also be overlooked by the upper levels and the roof terrace. If the proposal is approved, a condition should be imposed that all non-compliant building envelopes be removed from the approved plans prior to the issue of any Construction Certificate.

Town planning comment:

- The proposed development is seeking a variation to the 20 m height standard under Clause 4.6 of BLEP 2015. It is recommended that the variation be supported for the reasons outlined in Section 9 of this report. The majority of the building complies with the 20 m height limit, with only the lift overrun exceeding at the northern and eastern ends of the building. Council officers have consistently supported a variation to the maximum height limit to accommodate roof top facilities, such as lift overruns, and these minor encroachments are considered acceptable.
- The other non-compliant part of the building is located on the corner of Olive and Alice Streets and does not immediately adjoin a neighbouring property. This part of the building exceeds the maximum building height by up to 2.5 m, due to there being an almost 3 m fall across the site. The encroaching part of the building, however, is located in the centre of the site and will therefore have a negligible shadow and amenity impact on surrounding properties.
- Appropriate conditions, however, will be imposed on the consent to reduce overlooking opportunities from the roof top open space area. A detailed landscape plan will be required prior to the issue of a Construction Certificate. The plan will require planter boxes or the like to be provided around the perimeter of the roof top open space area, to prevent occupants and visitors from gaining access to the edge of the building where overlooking opportunities are the greatest. Details of any screens and/or mature plantings to protect the adjoining neighbours' privacy will also be required as part of the Construction Certificate (**condition 7.4.3**).
- It is considered that the private open space, located at the rear of the dwellings on the opposite side of Olive Street, and the church and school

grounds will not be impacted by this development given there is a distance separation of over 30 m. The development is also setback a minimum of 9 m from the Olive Street front boundary and the Olive Street elevation and generally complies with the maximum building height.

10.3.3 SEPP 1 objection

The proposal is inconsistent with SEPP 1 as there will be a permanent impact on the neighbour's amenity and enjoyment of their land.

Town planning comment:

- State Environmental Planning Policy No 1 – Development Standards has been repealed. Instead the applicant is seeking a variation to the 20 m height standard under Clause 4.6 of BLEP 2015. It is considered that there are sufficient environmental planning grounds to justify varying the development standard as outlined in Section 9. A copy of the applicant's written variation request is held at **Attachment 2**.

The encroachments to the building height standard will have negligible shadow and amenity impacts on surrounding properties, given that the majority of the encroachment is limited to the portion of the building located on the corner of Olive and Alice Streets where there are no immediately adjoining properties. Appropriate conditions will also be imposed on the consent to reduce overlooking opportunities from the roof top open space area, through the provision of planter boxes, screens and mature landscaping (**condition 7.4.3**).

10.3.4 Overshadowing

The proposal will create an unreasonable level of overshadowing. The adjoining dwelling will be completely overshadowed during the middle of winter. Overshadowing will create a significant impact to the amenity and the enjoyable use of the residence and private open space. The non-compliance with Council's height limit makes the overshadow impact more unacceptable. Loss of daylight will hugely reduce the healthy level of the environment people live in. For example, less direct sunlight causes increased levels of humidity and mould.

Town planning comment:

- Blacktown Development Control Plan (BDCP) 2015 states that at least 50% of a property's open space area should receive sunlight for at least 2 hours between 9 am and 3 pm on 21 June. Hourly shadow diagrams showing the impact of the proposal on surrounding sites in midwinter have been submitted and are included at **Attachment 10**.
- The shadow diagrams demonstrate that there will be no unreasonable overshadowing impacts on any adjoining neighbour. The development will overshadow the properties at 13 Olive Street, 4b George Street and 1a George Street at 2 pm and 3 pm only, and therefore complies with the requirements of BDCP. The extent of overshadowing, however, is considered minor given that these properties are also zoned R4 High Density Residential under Blacktown LEP 2015. A development application has also been recently lodged for a similar high density residential development on the land immediately to the north, including 4b George Street. In accordance with the solar access principles, it is reasonable to expect that some overshadowing will occur to adjoining properties in high density areas.

- The development will also overshadow the properties on the opposite side of Olive Street at 9 am and 10 am. These properties are zoned R2 Low Density Residential. The extent of overshadowing, however, is limited to the roof area of the dwellings, the front yards and the area between the dwellings. The backyards of these dwellings will not experience any additional overshadowing as a result of this development. By 11 am there will be no overshadowing impacts on the opposite dwellings.
- As the dwellings on the opposite side of Olive Street will all receive unrestricted solar access between 10 am and 3 pm to their principal open space areas, and there will be no shadow impacts at all on these dwellings for at least 4 hours between 9 am and 3 pm on 21 June, the shadows cast by the proposal are considered acceptable.
- The overshadowing caused by the non-complying lift overruns is captured within the roof space itself. The remaining part of the height encroachment is predominantly limited to above the Alice Street entry and also has a negligible shadow impact on surrounding properties.

10.3.5 Privacy

The Olive Street balconies will overlook adjoining dwellings and impact on the neighbour's privacy. Future residents of the proposed development will be able to see the neighbours' properties and backyards, which will leave no privacy at all.

Town planning comment:

- The proposed residential flat building has been designed in accordance with the Apartment Design Guide (ADG). Balconies have been positioned to face away from adjoining properties, and where they do face adjoining properties a minimum setback of 6 m or 9 m has generally been provided.
- Where a non-complying boundary setback has been provided to a balcony or where a minor encroachment has been provided, we are recommending that suitable privacy screens be installed, or that balconies be deleted or redesigned. To address this matter, we are recommending that a 'deferred commencement' condition be imposed requiring that amended plans be submitted to Council's Manager Development Assessment for separate approval. The recommended plan amendments are described in Section 9 of this report and are also shown on the plans at **Attachment 11**. The recommended changes to the development plans will ensure that the building is provided with satisfactory boundary setbacks and that the neighbour's privacy is not unreasonably impacted.
- The Olive Street balconies will not unreasonably impact on the low density dwellings located on the opposite side of the road, given there is a separation of 35 m between the proposed residential flat building and the existing dwellings.

10.3.6 Roof top terraces

The size and height of this entertainment facility will impact the entire neighbourhood precinct through both noise generation and loss of visual privacy for adjoining properties.

The size and scale of the roof top will pose an ongoing and chronic impact on the amenity, privacy and peace of adjoining neighbours.

Town planning comment:

- The roof top terrace provides a suitable communal open space area to meet the needs of the occupants. Roof terraces are common in residential flat development and are encouraged by the ADG.
- The roof terrace is setback 9 m from the boundaries of adjoining properties to reduce overlooking impacts. Appropriate conditions, however, will be imposed on the consent to ensure that suitable screening and landscaping (in the form of planter boxes or the like) is provided around the perimeter of the roof top open space to prevent occupants and visitors from accessing the edge of the building where overlooking opportunities are the greatest. Details of the screens and proposed plantings will be required as part of any Construction Certificate (**condition 7.4.3**).
- Conditions will be imposed limiting the use of the roof top area to only from 7 am to 8 pm, 7 days a week (**condition 15.6.2**). Restrictions will also be placed on the playing of amplified music within the roof top space, and CCTV and suitable lighting will be required to deter anti-social activities from occurring. These matters will be required to be addressed as part of the building by-laws and suitable signage will be required to advise residents and their visitors of these restrictions (**condition 14.16.2**).

10.3.7 Parking

Such a large development will exacerbate the already existing parking issues in the area. On-street parking in Alice and Olive Streets is already limited due to churchgoers on Saturday nights and Sunday mornings. The proposed parking of 206 car spaces would not accommodate the parking needs of the residents of the complex. Alice Street is already being used by train commuters, workers of surrounding businesses, patrons of the Southland Baptist Church and others for on-street parking. The additional residents would only add to the number of people wanting to park in Alice Street.

Town planning comment:

- Under Council's parking rate the proposed development requires 203 off-street car parking spaces. Clause 30 of SEPP 65 states, however, that car parking only needs to comply with the minimum parking requirements specified in the RMS 'Guide to Traffic Generating Developments', which is significantly less than Council's DCP requirement. If the number of car spaces complies with the RMS rate, then the development cannot be refused on the grounds of parking.
- Based on the RMS parking rates, the development requires 150 off-street car parking spaces. The development however proposes 206 car parking spaces and therefore provides a surplus of 56 spaces. The proposed parking arrangements are therefore considered satisfactory for this location and for this form of development.
- Approximately 2,200 commuter car parking spaces are provided at the Seven Hills railway station. Council officers are not aware of any planned expansion of the existing commuter carpark by Transport NSW.
- The Seven Hills railway station is also a 'nominated train station' by the RMS (Issue 1.9, September 2015). This means that the on-street parking arrangements, including any unrestricted parking, cannot be changed within 1 km of this station. Any proposal to provide time restricted parking in Alice Street would therefore be opposed by the RMS.

10.3.8 Traffic

Such a large development will exacerbate the already existing traffic issues in the area. Vehicular access to and from the proposed development via Alice Street will undoubtedly create dangerous situations at the junction of Alice Street with Best Road. The 138 units will increase the already existing heavily congested traffic in the neighbourhood during peak hours. The noise pollution, congestion and safety hazards will be significantly increased as a result of the carpark entrance being located on Alice Street.

There will be pedestrian and road safety issues due to the increased number of occupants and cars. It is recommended that pedestrian crossings and traffic lights be introduced at the junction of Alice Street and Best Road. The increase in occupants and traffic on the street will require the installation of more street lights at Alice Street.

The existing provision of the school bus zones for before and after school use need to be retained as well as the 40 kph speed restriction in Olive Street.

Town planning comment:

- A detailed discussion of the traffic impacts is provided in Section 9 of this report. All vehicular access is proposed via a combined ingress/egress driveway in Alice Street. No vehicular access is proposed to/from George Street or Olive Street. It is Council's traffic engineer's opinion that the applicant has provided the safest option by providing sole access from Alice Street.
- The applicant's traffic report has satisfactorily demonstrated that the additional traffic from the proposed development will not impact on the efficiency of Alice Street or its intersection with Best Road.
- Movements out of Alice Street to Best Road (left and right) represent approximately 1 vehicle every 2 minutes during the peak hour period. The applicant's traffic consultants observed during peak hour periods that there were frequent gaps of adequate duration along Best Road to allow these movements to occur with relative efficiency.
- Right turn movements from Best Road into Alice Street represent approximately 1 vehicle every 9 minutes. The applicant's traffic consultant's observations of Best Road in the evening peak hour period identified that there were frequent gaps in the traffic flow such that right turn movements into Alice Street could occur relatively efficiently. It was also noted that the width of the south-east bound carriageway of Best Road at Alice Street is approximately 6.5 m wide. This width provides the opportunity for vehicles to pass those vehicles that may be queued waiting to turn into Alice Street.
- With an additional 27 morning peak hour vehicles and 21 afternoon peak hour vehicles generated by the subject proposal, post development traffic volumes on Alice Street have been forecast to be in the order of 47 in the morning peak hour period and 61 in the afternoon peak hour period, both of which are well below the environmental goal of 200 peak hour vehicles established by the RMS. The applicant's traffic consultant has therefore concluded that the traffic will not have a noticeable effect on the residential amenity of Alice Street. Upon full development of Alice Street with high density residential flat buildings, the number of peak hour vehicle movements will still be well below the RMS environmental goal of 200 peak hour vehicles.

- All traffic control measures in the surrounding streets, including the 40 kph speed restriction in Olive Street, will be retained.
- Any additional traffic control measures (e.g. pedestrian crossings and traffic lights) would be separate to the requirements of this application. The RMS and Council's traffic engineers have both assessed the applicant's traffic report and have raised no objection to the development and have not recommended any specific conditions of consent.

10.3.9 Loss of property value

The property value of the surrounding properties, especially the ones that are right next to the proposed development, will be hugely reduced. Over time the significant increase of the level of humidity inside the lower height properties will harm the structure of the properties and, as a result, reduce their useful life time.

Town planning comment:

- Property values are not a relevant planning consideration. However, it should be noted that the properties immediately to the north, east and west have also been 'up-zoned' from low density to R4 High Density Residential under the Blacktown LEP 2015.
- It is therefore reasonable to expect that these properties would have a higher land value given they can be redeveloped for a wider variety of residential land uses, including residential flat buildings.
- There is no evidence that the proposed development will lower property values of the dwellings to the south, given they are separated by Olive Street and therefore will not be unreasonably impacted in terms of overshadowing or privacy. These dwellings will also not experience any additional traffic impacts given that all vehicular access will be provided from Alice Street.

10.3.10 Noise, rubbish and pollution

The increase in the number of residents will impact on cleanliness of the street and other surrounding streets. Uncleanliness will lead to health issues for the occupants of Alice Street. The number of units and car parking spaces proposed will increase the level of noise for the current residents of Alice Street and the other surrounding streets.

Town planning comment:

- The proposal provides for on-site garbage collection in the basement. A separate caged bulky waste storage area is also provided in the basement to prevent the dumping of large, unwanted items on the footpath. As all waste collection will occur within the basement of the development, it is unlikely that the development will impact on the cleanliness of the street.
- The applicant's traffic assessment has demonstrated that traffic will not have a noticeable effect on the residential amenity of Alice Street. It is therefore unlikely that there will be any unreasonable noise impacts generated by vehicles entering and leaving the site.

10.3.11 Demolition

It is requested that a condition of consent be included that all neighbours, including those opposite, be notified in writing 1 week before demolition begins.

Town planning comment:

- Standard demolition conditions, including suitable conditions to address asbestos, including WorkCover requirements and hours of work by the developers, will be included in the consent.
- An advisory condition will also be included, requesting that all adjoining and nearby neighbours be notified of the proposed demolition works at least 7 days prior to work commencing (**condition 4.2.1**).

11 Section 79C consideration

- 11.1 Consideration of the matters prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 is summarised at **Attachment 5**.
- 11.2 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.

12 Recommendation

- 12.1 The submission under Clause 4.6 of BLEP 2015 for a variation to the 20 m height standard be supported in this instance.
- 12.2 The development application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at Attachment 1.
- 12.3 The objectors be advised of the Panel's decision.


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