

Clause 30 of SEPP 65 states, however, that car parking for the residential component of the development 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 Blacktown CBD is defined as a 'metropolitan regional centre'. Therefore, the RMS parking rates of 0.4 spaces per 1 bedroom unit, 0.7 spaces per 2 bedroom unit and 1 visitor car space for every 7 units apply to this development.

Based on the RMS parking rates, the residential component of the development requires 121 off-street car parking spaces. Together with the required 30 commercial/retail spaces, the development requires a total of 151 car spaces.

The development proposes 191 car parking spaces across 5 levels (i.e. ground level and 4 basement levels). The development therefore provides a surplus of 40 spaces.

To ensure an appropriate distribution of the car spaces, it is recommended that a condition be imposed on any consent requiring that the 191 proposed car spaces be allocated as follows:

- 30 business/retail spaces (as per Council's DCP rate)
- 23 visitor spaces (as per the RMS rate)
- 138 resident spaces (which is 40 more spaces than required by the RMS).

Of the 138 resident spaces, 1 space will be allocated to each 2 bedroom unit (i.e. 111 spaces). The other 27 spaces will be allocated to the 1 bedroom units. This means that 22 x 1 bedroom units will not have an allocated car space. The 30 business/retail car parking spaces, however, could be utilised by these residents/occupiers outside of trading hours. The body corporate would be responsible for monitoring and controlling the dual use of the business/retail car parking spaces. It is likely that a portion of occupants will also not own a car given that the site is located in close proximity to the Blacktown train station. The RMS car parking rates have been adopted to reflect the number of people who rely on public transport.

(b) 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 42% of the sum of the following:

- 30 sqm for each 1 bedroom dwelling
- 40 sqm for each 2 bedroom dwelling.

There is no science to the 42% rule. It evolved over time following a number of reports to Council over the last 10 years where Council gave variations depending on the scale of the development and its location.

Based on these rates, the proposed development requires 2,482 sqm of common open space, of which 30% (745 sqm) can be provided on private balconies/terraces. This is more than the area of the site (i.e. 2,111 sqm) and is considered a significant amount of common open space in a CBD context.

The development provides 745 sqm on the balconies (as the 30% allowance) and 633 sqm, being an open area at the podium level measuring 588 sqm and a 45 sqm 'resident only' meeting room/gymnasium at the 1st floor level. This represents 56%

of the BDCP control. The outdoor open space area will be embellished with paving, timber decking, synthetic grass and suitable trees and shrubs within planter boxes. Communal bench seating, tables and a barbeque are also proposed.

The amount of common open space provided does not comply with the DCP, but does comply with the Apartment Design Guide (ADG) requirement and is considered acceptable for a high-rise development located within the CBD. Under the requirements of the ADG, the development is only required to provide a common open space area equivalent to 25% of the site area (i.e. 528 sqm). This is significantly different to our DCP requirement.

The proposal complies with the state-wide accepted industry standard and insistence on a higher level of provision will not be sustainable if the DA is appealed in the Land and Environment Court. The Apartment Design Guide was adopted by the NSW Government in July 2015 and is relied upon by developers as the state-wide design parameters for apartment buildings. Our design standards have been in place for 20 years and do not reflect current design practice. It has been recommended to Council that we review our DCP so that it aligns to the standards in the state-wide guidelines.

(c) Private open space

Clause 6A of SEPP 65 states that the private open space and balcony requirements of the ADG prevail over any inconsistent DCP control.

BDCP 2015 does not include a clear minimum private open space requirement. Instead it states that in order to provide usable open space for individual dwellings, private balconies/terraces may make up 30% of the common open space requirement.

Determining whether the private open space requirement of the DCP is consistent or inconsistent with the ADG is therefore difficult. The DCP does state, however, that the balconies must measure at least 2.5 m x 3.0 m, while under the ADG balconies are only required to measure 2.0 m x 3.0 m.

Given that the proposed development provides common open space, private open space and balcony areas all in accordance with the requirements of the ADG, it is considered that the proposed development has been appropriately designed and that the residents will be provided with a suitable level of amenity.

7.3 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 assessing officer's assessment against the relevant design concepts and numerical guidelines of the ADG is held at attachment 6. The development complies with the ADG with the exception of the proposed building separation as discussed below.

(a) Building separation

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

- 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 m 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 m between habitable rooms/balconies
 - 18 m between habitable/balconies and non-habitable rooms
 - 12 m between non-habitable rooms.

Above the 2 storey commercial podium level, the proposed development provides:

- A zero setback to the front northern boundary. The width of the road (First Avenue) ensures that the building separation requirements to any future development on the opposite side of the road can be met
- A minimum 6 m setback to the western boundary adjacent to the existing 2 storey Centrelink building
- A minimum 6 m setback from the centre line of Humphries and Zolyomi Lanes adjoining the eastern and southern boundaries.

The proposed development does not provide 9 m – 12 m setbacks at levels 4 and above and therefore does not comply with the suggested building separation for its intended height.

The ADG, however, is a guide only and allows building separation controls to be varied in response to site and context constraints. Where a proposed development intends to provide less than the recommended distance separation, 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.

i. *Daylight access*

The proposed development complies with the minimum solar access requirement that 70% of the units receive a minimum 2 hours direct sunlight between 9 am – 3 pm in mid-winter. Solar access drawings for the proposal are held at Attachment 10. 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 will receive adequate solar access.

ii. *Urban form*

In considering the existing urban form, consideration should be given to other DAs Approved in the Northern Precinct of the CBD, which similarly have side and rear reduced setbacks. The table below compares the subject development with other approvals in the area.

Address	Development	Side Setbacks (above podium)	Determination
20 Second Avenue	DA-02-5551 11 storeys mixed-use	1 m - 5.7 m (average 3.3 m)	Approved 24/10/04
29 - 31 Second Avenue	JRPP-09-1574 20 storeys mixed-use	6 m – 16 m (point encroachments to 5 m)	Approved 26/08/10
26 Second Avenue	DA-13-1143 9 storeys mixed-use	6m (point encroachments to 3.5 m)	Approved 15/9/14
28 Second Avenue	JRPP-14-2593 24 storey mixed-use	6 m (point encroachments to 4 m)	Approved 23/6/15
2-10 First Avenue	JRPP-15-2087 18 storeys mixed-use	Minimum 6 m with no point encroachments	This DA

It can be seen from the table that the proposed development is consistent with the setbacks established by previous approvals in the area. 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 BDCP 2015 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 6 m, with balcony encroachments to be considered on its merits.

The original plans submitted to Council proposed a tapering setback to Zolyomi Lane varying from 2.6 m to 10.1 m. The plans have been amended to provide a 6 m setback from the centreline of each laneway and will ensure that a minimum 12 m building separation can be achieved between this development and any future development on the opposite sites. A 12 m separation is consistent with the provisions of Council's DCP.

Therefore, based on the urban form established by previous approvals in the area, as well as compliance with BDCP 2015, the development is considered to be consistent with the surrounding and future urban form.

iii. Visual and acoustic privacy

The proposed balconies are generally oriented towards the street (First Avenue, Zolyomi Lane and Humphries Lane). Only 2 balconies per level are oriented to the neighbouring property to the west, which currently contains the Centrelink building, and these are setback 25 m from the boundary.

The building layout minimises direct overlooking of rooms and private open space of adjacent apartments. However, on every level units 4 and 7 are quite close, and therefore fixed screens with obscure glass and sound baffles are proposed.

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. It is also noted that the

numerical standards in the ADG are guidelines only and that variations should not warrant refusal of the application.

7.4 Additional planning assessment

An assessment of other key issues relating to the proposed development is provided below. A copy of the development plans is included at attachment 4.

(a) Solar access

The original DA plans proposed a regular shaped building on an irregular shaped allotment. The windows faced directly north, south, east and west, and did not respond to the orientation of the lot. Following an assessment of the plans it was established that only 43% of the proposed units achieved the required 2 hours of solar and daylight access under the ADG. This was considered a significant departure from the 70% requirement under the ADG.

To respond to this concern, the Zolyomi Lane frontage has been adjusted. The stepping of the eastern façade now means that the development achieves solar access above the ADG standard. A separate solar access study has been submitted with the application and is included at attachment 11.

(b) Vehicular access and traffic

The original DA plans proposed 2 separate vehicular access points. This included 1 off Humphries Lane for the residents and their visitors and a separate access off Zolyomi Lane for commercial vehicles, staff and customers. While the traffic engineers from Traffic Management Services (TMS) preferred to keep the residential and commercial traffic separate, they could not support an access driveway off Zolyomi Lane unless the lane was widened to 9 m.

The RMS considered the proposal and raised no objection to the development, subject to Council considering the cumulative impact of the development on the surrounding local road network.

Given that the widening of Zolyomi Lane could not be accommodated, TMS recommended that, subject to all other traffic related issues being satisfactory, both the commercial and residential access be provided off Humphries Lane.

A detailed traffic analysis was required, demonstrating that the 160 residential units, together with the proposed commercial floor space, would not cause negative impacts on the surrounding street network. The traffic report was required to consider both the current and future land uses within this precinct and determine whether sufficient capacity existed along Humphries Lane when the subject and adjoining properties were fully developed.

The DA plans have been amended to provide a single access driveway from Humphries Lane, and provision has been made for the widening of Humphries Lane by 1.5 m and the required 5 m x 5 m splay corners.

A Traffic and Parking Assessment Report, prepared by GTA consultants, was submitted demonstrating that Humphries Lane has the capacity to accommodate the traffic generated from both the development site and from surrounding properties when they are fully developed.

The traffic report also 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 (RMS) publication *Guide to Traffic Generating Developments* and the RMS *Technical Direction* (TDT2013/04), the development will result in an

increase of up to 55 vehicles per hour during the critical AM peak period and 62 vehicles per hour during the PM peak period. This is equivalent to about 1 additional vehicle every minute.

The traffic assessment has concluded that the Humphries Lane/Sunnyholt Road intersection would retain its current level of service and continue to operate well with minimal queues and delays in the future under the post development conditions. Humphries Lane is also expected to meet the environmental capacity threshold for an accessway. Given that the local traffic conditions in the vicinity of the site would not have any notable impact from this proposal, no mitigation measures are required.

(c) Design

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.

Our City Architect reviewed the original DA plans and raised the following concerns:

- The ground floor level doesn't work as it is set lower than the adjacent footpath
- The 2-storey commercial podium has been "squashed" to squeeze in the residential floors
- The podium requires more mass and additional height
- Insufficient setbacks have been provided to Zolyomi Lane and Humphries Lane, which has the potential to impact on the amenity of adjacent properties, including their sunlight access, outlook and privacy.

To address these concerns, the ground floor level has been adjusted and more height has been added to the podium to eliminate the "squashed" appearance and to promote an active street frontage. A detailed discussion regarding height and the podium design is included under section 7.

The plans have also been amended to provide a minimum 6 m setback from the centreline of each laneway to ensure that a minimum 12 m building separation can be achieved between this development and any future development on the opposite sites.

It is recognised that the development is in an extremely prominent position on a main approach to the Blacktown CBD. It is also a prominent building and one that will be viewed 'in the round'. Council's City Architect, however, has raised no objections to the amended design for the following reasons:

- The stepped eastern façade (to Zolyomi Lane) provides a better outcome for urban design, solar access and neighbour's amenity
- The stepped eastern façade also helps to reduce the building's visual impact and solid appearance
- Interesting cladding treatment and window patterning has been proposed. The irregular window placement between floors and contrasting dark panels generates visual interest
- The proposed building finishes include painted concrete, glass, aluminium and high pressure laminate. The building form is simple and understated with individual expression in the random pattern of infill and colours.

(d) Acoustic issues

An acoustic assessment, prepared by Wood and Grieve Engineers, has been submitted as part of the DA. The assessment considers the potential noise impacts from vehicle movements (due to the proximity to Sunnyholt Road) and the nearby rail corridor.

To address potential noise concerns, the report has recommended that appropriate acoustic treatment, in the form of external glazing, be provided to ensure that a reasonable level of amenity is achieved for future residents.

The units on the eastern elevation (i.e. orientated towards Sunnyholt Road) will be the most significantly impacted by traffic noise and will require the highest levels of acoustic treatment (i.e. glazing with a minimum thickness of 10.38 mm). Suitable conditions will be imposed on any consent to ensure compliance with the recommendations of the acoustic assessment and the specified glazing thicknesses.

The acoustic assessment also looked at the potential impact of any required mechanical plant on the nearest residential receivers located on the opposite side of Sunnyholt Road. The main mechanical sources associated with the development will include the external air conditioning units and the carpark exhaust fans.

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 any consent to address this matter.

(e) Waste management

Following various amendments, the site now provides a separate caged bulky waste storage area, separate resident and commercial waste rooms, waste chutes and recycling bins on each floor of the building. The proposed loading bay will also be provided with a parking lock/barrier to prevent unauthorised parking.

While the development has been redesigned to accommodate Council's heavy rigid garbage trucks (i.e. 11 m long vehicles with a 25 m turning circle and a required 4.5 m headroom clearance), the applicant has entered into a contract for all waste and recycling to be collected by a private contractor.

A 1 m concession to the permissible building height limit has been applied to this development, given a 4.5 m high basement clearance has been provided to accommodate on-site garbage collection. Our officers have consistently supported a variation to the maximum height limit to accommodate plant and equipment.

Conditions of consent will be imposed on any consent issued requiring that suitable arrangements for waste collection be included within the strata management agreement for the building.

(f) Prescribed airspace

Bankstown Airport Limited applied for prescribed airspace under the *Airport (Protection of Airspace) Regulations 1997*. Blacktown City was notified of this request given our council area is located beneath the airspace related to the airport. The proposed 61.35 m high building, however, will not impact on the prescribed airspace as the horizontal plane over the Blacktown CBD is more than 400 m.

Indicative flight paths and aircraft approach and departure paths have also been developed for the proposed Western Sydney Airport by Airservices Australia. The draft Environmental Impact Statement (EIS) indicates that aircraft will fly more than 1,500 m above the Blacktown area. As such, the proposed development will have no impact on any prescribed airspace.

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 objections subject to conditions. Suitable conditions will be imposed to ensure Humphries Lane is widened by 1.5 m for its full length. Engineering plans will be required prior to release of a Construction Certificate.
Civil maintenance	Council's Civil Maintenance Section was requested to provide comments/conditions in relation to the awning and path paving. As a condition of consent, an engineer listed on the national professional engineering register (NPER) must certify that the structural integrity of the awning complies with the BCA and any other relevant standards. Ongoing inspections are to be undertaken by a NPER engineer every 5 years and the results are to be forwarded to Council's Civil and Park Maintenance Section for its record. The footpaths are to be constructed to CBD standards and the existing layback on First Avenue is to be removed and replaced with kerb and gutter.
Building	Council's Building Section has reviewed the DA and raises no objections subject to conditions. An access report has been prepared for the development to determine whether the proposal will meet the relevant requirements for access for people with a disability, 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.
Heritage	Council's Heritage Advisor believes that the proposal will have a substantial visual impact on the heritage dwellings located at 41 and 47 Clifton Street, Blacktown. It was therefore recommended that variation be provided to the selected building colours and materials to help mitigate the visual impact of the proposed tower on these properties. The submitted Heritage Impact Statement notes that the planting of some trees at the end of Clifton Street would provide a buffer between the development and the heritage items. While Council's Heritage Advisor agrees that trees would assist in reducing the visual impact, it is recognised that this may not be possible given that the trees would need to be planted on land owned by the RMS (i.e. adjacent to the Sunnyholt Road T-way). Improvements to the general appearance of the building were therefore considered preferable. Council's City Architect was requested to respond to these comments and provide advice about the building materials and finishes. The City Architect's comments are provided below.
City Architect	Council's City Architect raised a number of concerns with the original DA plans. A discussion of these concerns is provided at section 7. No objections are raised to the DA now that the plans have been amended. The proposed development will be highly visible from the front yards of the heritage dwellings located at 41 and 47 Clifton Street, Blacktown. The upper levels of the development are also likely to be visible from the rear yards of

Section	Comments
	these dwellings. The heritage dwellings, however, are located on land that has been rezoned from 2(a) Residential (i.e. predominantly detached dwellings) to R4 High Density Residential, and are likely to be surrounded by 6 storey residential flat buildings in the future. In response to the comments made by Council's Heritage Advisor, our City Architect has advised: <i>" ... the building does have a significant presence when viewed from the heritage properties at 41 and 47 Clifton Street. However, I see this as being an outcome consistent with the permissible use of the site and built form controls of the surrounding B4 precinct. That is, future permissible buildings adjacent to the proposed development site on similarly zoned land will have similar scale, height and mass. A building whose visual appearance currently appears as an anomaly in terms of bulk and mass will ultimately be part of a larger, consistent backdrop. ... I have formed the opinion that a 'quieter' background building is better than one that is too highly articulated and 'noisy'.</i> <i>I recommend the colours and materials exercise restraint and the building form retain its simplicity ... "</i>
Tree management	Council's Tree Management Coordinator has provided suitable conditions in relation to street tree planting and the associated tree bond. The nominated tree species on the landscape concept plan, <i>Lagerstroemia indica</i>, are considered unsuitable as they are too small for the scale of the building. A condition has therefore been included requiring that the nominated tree species be substituted with a larger tree such as <i>Populus simonii</i> – Chine Poplar. Conditions have also been included to ensure that the footpath treatment will be consistent with the 'Basalt Black' paving with 'sesame grey' banding used elsewhere throughout the CBD.
Traffic Management Services (TMS)	Council's Traffic Management Section (TMS) originally raised concerns with the number of car parking spaces and the proposed access arrangements off Zolyomi Lane. While TMS supported the provision of a separate commercial access point, they could not support a driveway off Zolyomi Lane unless the lane was widened to 9 m. A traffic report was therefore requested to address these issues and to demonstrate that the current laneway configuration and width was adequate for the circulation of vehicles associated with this and adjoining developments. In response the applicant submitted a revised set of plans and a traffic report (prepared by GTA Consultants dated 8 December 2015). TMS reviewed the amended documentation and advised: • 191 car parking spaces are proposed, but only 151 spaces are required in accordance with the minimum requirements established under SEPP 65 • The car parking layout complies with the Australian Standard for off-street car parking. The headroom for the disabled spaces is also acceptable • Vehicular access will now be restricted to a single access point off Humphries Lane. The combined mix of movements by commercial, residential, visitors and disabled vehicles is not the preferred arrangement, but the traffic report has satisfactorily demonstrated that a single access point is acceptable. • The traffic generation has been reviewed and its impact on the public road intersections is acceptable using RMS trip generation.

Section	Comments
	Council's TMS therefore raises no objections to the DA subject to the following conditions: • 5 m x 5 m splay corners are to be provided at both ends of Zolyoni Lane and dedicated to Council. • Humphries Lane is to be widened by 1.5 m and dedicated to Council. • The on-street parking spaces at the entry point off Humphries Lane are to be deleted to provide a 6.0 m clearance for vehicles turning off the public roadway into the site.
Waste Services	Council's Waste Services Section has reviewed the DA and raises no objection subject to conditions. A discussion about the waste collection arrangements is provided in section 7.
Environmental Health Section	Council's Environmental Health Section has reviewed the DA and raises no objections subject to conditions. A discussion about the proposed acoustic measures is provided in section 7. A stage 2 site contamination report and remediation action plan (RAP) has also been prepared by Douglas Partners dated February 2016. The RAP requires the removal of all fill from the site. Conditions will be included to address site contamination matters and to ensure that the site is validated as being suitable for the proposed mixed-use development.

9 External referrals

9.1 The DA was referred to external authorities as summarised below:

Section	Comments
RMS	Roads and Maritime Services (RMS) reviewed the DA and raised no objection to the proposal. However, it was suggested that Council consider the cumulative impact of the development on the surrounding local road network. The traffic generation has been reviewed by our TMS and it has been concluded that the development's impact on the public road intersections would be acceptable using RMS trip generation rates. TMS comments are provided in section 8.
Sydney Trains	The development is located approximately 70 m from the rail corridor. Sydney Trains reviewed the DA and raised no objection to the proposal subject to the applicant demonstrating that the development will comply with the Department of Planning's document titled " <i>Development near rail corridors and busy roads – interim guidelines</i> ". A standard condition will be imposed to address this request.
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.

10 Public comment

10.1 The DA was notified to adjoining and nearby property owners and occupants from 9 to 23 December 2015. 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, 1 submission was received objecting to the proposal. Figure 5 below identifies the location of the objector's property.

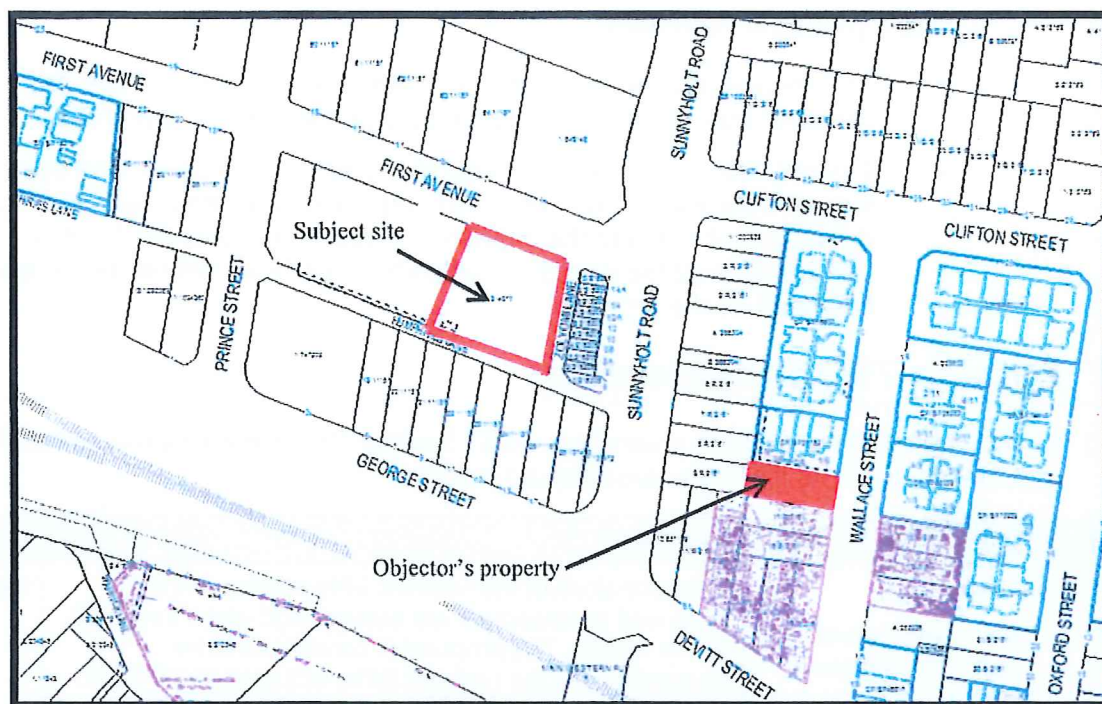


Figure 5 Location of objector (Source: BCC, 2016)

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

10.3.1 Overshadowing

The development will overshadow the heritage property at 4 Wallace Street, Blacktown from 3 pm. Compensation should be given for additional heating and insulation costs.

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.
- Shadow diagrams showing the impact of the proposal on surrounding sites, including the objector's property, between the hours of 9 am and 3 pm on 21 June have been submitted and are included at attachment 10.
- The shadow diagrams demonstrate that there will be no unreasonable overshadowing impacts on the heritage property at 4 Wallace Street. The proposal will only result in additional overshadowing of the objector's property from 3 pm onwards.
- Given that the objector's property receives uninterrupted sunlight to the backyard area between 9 am and 2 pm, it is considered that the use and enjoyment of the property will not be unreasonably impacted by overshadowing and that there is no justification for monetary compensation.

10.3.2 Amenity

The height of the development will affect my general day to day quiet enjoyment of my land and pets.

Town planning comment:

- As indicated above, the proposed development will not cause any unreasonable overshadowing impacts on the objector's property.
- The objector's property is located to the east of the site on the opposite side of Sunnyholt Road. Given the distance separation between the development site and the objector's property (i.e. over 90 m), it is considered that the objector's amenity and privacy will not be unreasonably impacted by the proposal.

11 Section 79C consideration

11.1 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) (i) the regulations	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 BLEP 2015, SEPP (Infrastructure) 2007 and the 9 'design quality principles' of SEPP 65. The proposed development is a permissible land use within the B4 Mixed Use zone and satisfies the zone objectives outlined under BLEP 2015. The proposal does seek to vary the principal development standards under BLEP 2015. The applicant has submitted a request to vary the 2 development standards pursuant to clause 4.6 of BLEP 2015. The height control is varied by up to 5.35 m and the FSR control is varied by 0.26:1. The proposed variations are discussed in detail in section 7 and are considered satisfactory. BDCP 2015 applies to the site. The proposed development is compliant with the numerical controls established under the DCP, with the exception of common open space, private open space and car parking. The variations are discussed in detail under section 7 and are considered acceptable. Given that the open space provision complies with the requirements of the ADG, it is recommended that the development be supported in its current form. Clause 30 of SEPP 65 also states that if the number of car spaces complies with the RMS rate (which is significantly less than Council's DCP requirement) then the development cannot be refused on the grounds of parking. The proposal provides a surplus of 21 spaces when assessed against the RMS rate and is therefore considered satisfactory.	Yes
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	An assessment of the key issues relating to the proposed development is provided under Section 7. It is considered that the likely impacts of the development, including traffic, noise, parking and access, bulk and scale, overshadowing, privacy, waste management and the like, have been satisfactorily addressed. A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties.	Yes

Heads of Consideration 79C	Comment	Complies
	In view of the above it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.	
c. The suitability of the site for the development	The subject site is zoned B4 Mixed Use with a 56 m building height limit under BLEP 2015. Shop top housing is permissible on the site with development consent. 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 is located within close proximity to the Blacktown train station, Blacktown bus interchange and Blacktown CBD. The site is also located near services, facilities and a major arterial road network, making it suitable for higher residential densities.	Yes
d. Any submissions made in accordance with this Act, or the regulations	One submission was received in objection to the development. It is considered that the issues raised do not warrant refusal of the application. A summary of the objection and a town planning response is provided under section 10.	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

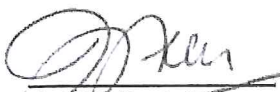
12 Concluding comments

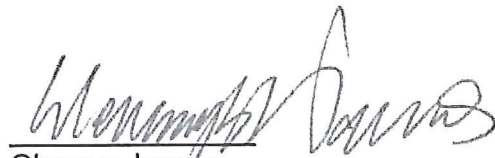
- 12.1 The proposed development has been assessed against the matters for consideration listed in Section 79C of the Environmental Planning and Assessment Act 1979 and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. Further, the site is considered suitable for the proposed development.
- 12.2 The proposal is consistent with the objectives of Blacktown Local Environmental Plan 2015 and the B4 Mixed Use zone and is permissible in the zone with development consent. The development addresses the main requirements of Blacktown Development Control Plan 2015, and is considered satisfactory with regard to relevant matters such as built form, access, stormwater drainage, site contamination and economic impacts and the like, subject to the imposition of suitable conditions of consent to satisfactorily control the development.
- 12.3 The proposed variations to the principal development standards (height and FSR) under BLEP 2015 will not result in any commercial gain for the developer (in terms of yield or number of storeys) and will result in a better designed building. The requested variations under clause 4.6 are considered reasonable, well founded and are recommended for support.
- 12.4 The variations to the building separation, common open space and private open space requirements are also considered satisfactory based on their merits and will have negligible impacts on amenity (e.g. in terms of solar access, privacy, access to recreation areas) of the future occupants of the building or the adjacent properties.

13 Recommendation

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


Rebecca Gordon
Senior Town Planner


Judith Portelli
Manager Development Assessment


Glennys James
Director Design and Development

1 ADVISORY NOTES

1.1 Terminology

- 1.1.1 Any reference in this document to a "consent" means a "development consent" defined in the Environmental Planning and Assessment Act 1979.
- 1.1.2 Any reference in this consent to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to a certificate as defined by Section 109C of the Environmental Planning and Assessment Act 1979.

1.2 Scope of Consent

- 1.2.1 Separate approval is required prior to the fit out of the business/retail floor space at the ground and first floor level. The applicant is advised to contact Council's Development Services Unit for further information.
- 1.2.2 The granting of this consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992. The applicant is advised to investigate any liability that may apply under that Act. The current suite of Australian Standard 1428 - Design for Access and Mobility, should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

1.3 Other Approvals

- 1.3.1 A separate valid Construction Certificate shall be issued prior to commencement of any construction works.
- 1.3.2 The applicant's attention is drawn to the need to obtain separate appropriate approval for any ancillary development not approved by this consent, including:
- (a) any fence, retaining wall, land excavation or filling, advertising structure or other development not being exempt development
 - (b) the erection of any advertising sign, not being "Exempt Development" within the State Environmental Planning Policy (Exempt and Complying Development) 2008
 - (c) the use or fit-out of the business/retail floor space not being "Exempt Development" within the State Environmental Planning Policy (Exempt and Complying Development) 2008
 - (d) strata subdivision
 - (e) the installation of a vehicular footway crossing servicing the development

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications.
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property.
- (c) It is in the public interest that they be imposed.

Kerry Robinson
GENERAL MANAGER

Per _____
Blacktown City Council

- (f) separate Council approval under the Roads Act 1993 for any crane used to construct this development that swings over public air space.

1.3.3 This consent does not authorise the encroachment or overhang of any building or structure over or within any easement.

1.4 Services

1.4.1 The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Energy provider
- (c) Natural Gas Company
- (d) The relevant local telecommunications carrier

regarding any requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on the land or on the adjacent public road(s).

All approved building construction plans attached to the Construction Certificate should be submitted to and stamped by a Sydney Water Corporation Limited Customer Centre or a Sydney Water Quick Check Agent as an indication that the proposal complies with the Sydney Water requirements. Sydney Water may also require the applicant to obtain a Trade Waste Approval as part of the operation of the approved development. Enquiries should be made to ascertain the Sydney Water requirements for the eventual operation of the approved use.

1.4.2 Information regarding the location of underground services may be obtained from the Sydney "Dial Before You Dig" service, telephone number 1100, fax number (02) 9806 0777. Inquirers should provide the street/road name and number, side of street/road name and the nearest cross street/road name.

1.4.3 Underground assets may exist in the area that is subject to your application. In the interests of health, safety, and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset holders a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

1.4.4 Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's

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