

## Report to Sydney West Joint Regional Planning Panel

<b>JRPP No.</b>	2016SYW034
<b>DA No:</b>	DA-15-02411
<b>Proposed Development:</b>	Construction of a three storey shoptop housing development containing 1,294 sqm commercial space and 22 apartments
<b>Development Type:</b>	Development on land owned by Blacktown City Council
<b>Lodgement Date:</b>	2 November 2015
<b>Land/Address:</b>	Lot 102 DP 801310, Aldgate Street, Prospect
<b>Land Zoning:</b>	B1 Neighbourhood Centre
<b>Capital Investment Value:</b>	\$15,080,000
<b>Applicant:</b>	M Abichaawani
<b>Landowner:</b>	Blacktown City Council
<b>Report Author:</b>	John Brunton – independent planning consultant
<b>Instructing Officers:</b>	Melissa Parnis – Assistant Team Leader, Projects Judith Portelli, Manager Development Assessment Glennys James, Director Design and Development
<b>Date Submitted to JRPP:</b>	16 November 2016
<b>Date Considered by JRPP:</b>	15 December 2016



Figure 1. Photomontage (AMG Developments Pty Ltd, 2016)

## ASSESSMENT REPORT

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### ATTACHMENTS

Attachment 1	–	Draft conditions of consent
Attachment 2	–	Development application plans
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Attachment 4	–	Assessment of compliance with SEPP 65 Apartment Design Guide
Attachment 5	–	Assessment of compliance with Blacktown Local Environmental Plan 2015
Attachment 6	–	Assessment of compliance with Blacktown Development Control Plan 2015
Attachment 7	-	Summary of submissions from first notification



## 1. Summary

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- 1.1 Blacktown City Council is in receipt of a Development Application (DA) from M Abichaawani for Lot 102 Aldgate Street, Prospect for tree removal and the construction of a three-storey shop top housing development. The proposal contains 7 parallel ground floor shop spaces totalling 1,294 sqm, above which are 22 residential apartments with car parking for 78 vehicles provided on site in the open at grade car park and in a basement.
- 1.2 The DA was lodged on 2 November 2015. Following an initial assessment, the proposal was redesigned in response to Council officer comments and community concerns. Revised plans were submitted on 18 May 2016.
- 1.3 The proposed development requires referral to the Joint Regional Planning Panel (JRPP) as it is located on land owned by Blacktown City Council and has a capital investment value of over \$5 million. While Council is responsible for the assessment of the DA, the Sydney West JRPP is the consent authority. To improve transparency, Council has engaged an external planning consultant to evaluate the proposal and prepare this report.
- 1.4 The development site is in zone B1 Neighbourhood Centre under Blacktown Local Environmental Plan (BLEP) 2015, under which retail premises (other than pubs), business premises, office premises and shop top housing are permissible with development consent.
- 1.5 A detailed assessment has been undertaken against the provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) and the associated Apartment Design Guide (ADG), BLEP 2015 and Blacktown Development Control Plan 2015 (BDCP 2015).
- 1.6 The submitted plans show the development complies with the numerical requirement of BLEP 2015. This is a maximum building height of 12 metres. There is no applicable floor space ratio for this site.
- 1.7 The development also complies with BDCP 2015 with the exception of setbacks and building separation. The proposed variations are considered acceptable as this is shop top housing within a neighbourhood centre.
- 1.8 The proposal is consistent with the objectives of SEPP 65 and satisfactorily achieves the 9 'design quality principles' listed under Part 2 of SEPP 65. The application has been assessed against the design guidelines provided within the ADG. The development complies with the numerical recommendations of the ADG with the exception of building separation to the eastern elevation. However, on its merits and given the application's compliance with the BDCP 2015 standards, the building separation is considered acceptable subject to conditions.
- 1.9 An independent traffic consultant was engaged to undertake an assessment of the traffic and parking implications of the development and on the wider road network. The assessment identified some internal design issues with the development, which have now been modified by the applicant and the need for a physical traffic solution at the intersection of Blacktown Road and Aldgate Street. Suitable traffic conditions of consent have been recommended for inclusion in any consent granted.
- 1.10 The initial DA was notified in January 2016, at which time 33 individual submissions were received as well as a petition with 238 signatures. The submissions raised concerns in relation to the scale and size of the development, traffic impact, car parking, privacy, noise impact, building design, tree removal, stormwater impact, hours of operation, waste management, building height, consistency with local character and crime impact.

- 1.11 Following notification, the development was revised from 2 x 4 storey shop top housing buildings to 1 x 3 storey shop top housing building.
- 1.12 The revised proposed development was notified to property owners and occupiers within the locality between 6 and 20 July 2016. The DA was also advertised in the local newspapers and a sign was erected on site. Five submissions, one of support and 4 objecting to the proposal, were received. The submissions raised concerns in relation to land use, scale, traffic and parking, electricity, stormwater and tree loss. It is considered that all of these issues are adequately addressed through the design of the development. The concerns raised are not considered sufficient to warrant refusal of the DA.
- 1.13 The proposal has been assessed against relevant clauses within the applicable environmental planning instruments. The development is considered to satisfy all relevant clauses. A detailed assessment is undertaken in Section 6 of this report.
- 1.14 Overall, the development is considered satisfactory with regard to relevant matters such as siting, bulk and scale, privacy, 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.
- 1.15 It is recommended that the proposed development be approved subject to the conditions documented at **Attachment 1** to this report.

## 2. Location

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- 2.1 The site is located within the Prospect neighbourhood centre, adjacent to the western boundary of the existing Prospect Village Shopping Centre. The site is on the southern side of Aldgate Street from which vehicular access will be provided. Pedestrian access is available to the adjacent Council open space reserve (of which the site was once a part) to the south of the site.
- 2.2 The location of the site is shown in Figure 1 and illustrated in the aerial photograph at Figure 2 below. The Prospect neighbourhood centre is located on the corner of Aldgate Street and the major collector road, Blacktown Road. As a major collector road, Blacktown Road provides access to the Great Western Highway and M4 Motorway to the south, and to Seven Hills local centre and the Blacktown CBD to the north/north-west. The site is within walking distance of bus stops that provide services to Blacktown and Parramatta.
- 2.3 The Prospect neighbourhood centre is located on the boundary of the established residential suburbs of Prospect and Toongabbie to the north and east. These suburbs consist largely of single dwelling houses and are zoned R2 Low Density Residential, with a height limit of 9 metres. The Prospect employment area, zoned B5 Business Development, containing the Blacktown electricity substation, warehouses and industrial units, is to the south. Consequently, the subject site forms part of the transition from the industrial area to the residential neighbourhood.
- 2.4 The site is traversed from north to south on its western side by high voltage electricity transmission lines that link to the Blacktown substation in the Prospect employment area.
- 2.5 There are no heritage items in close vicinity to the site that will be impacted by the proposed development.



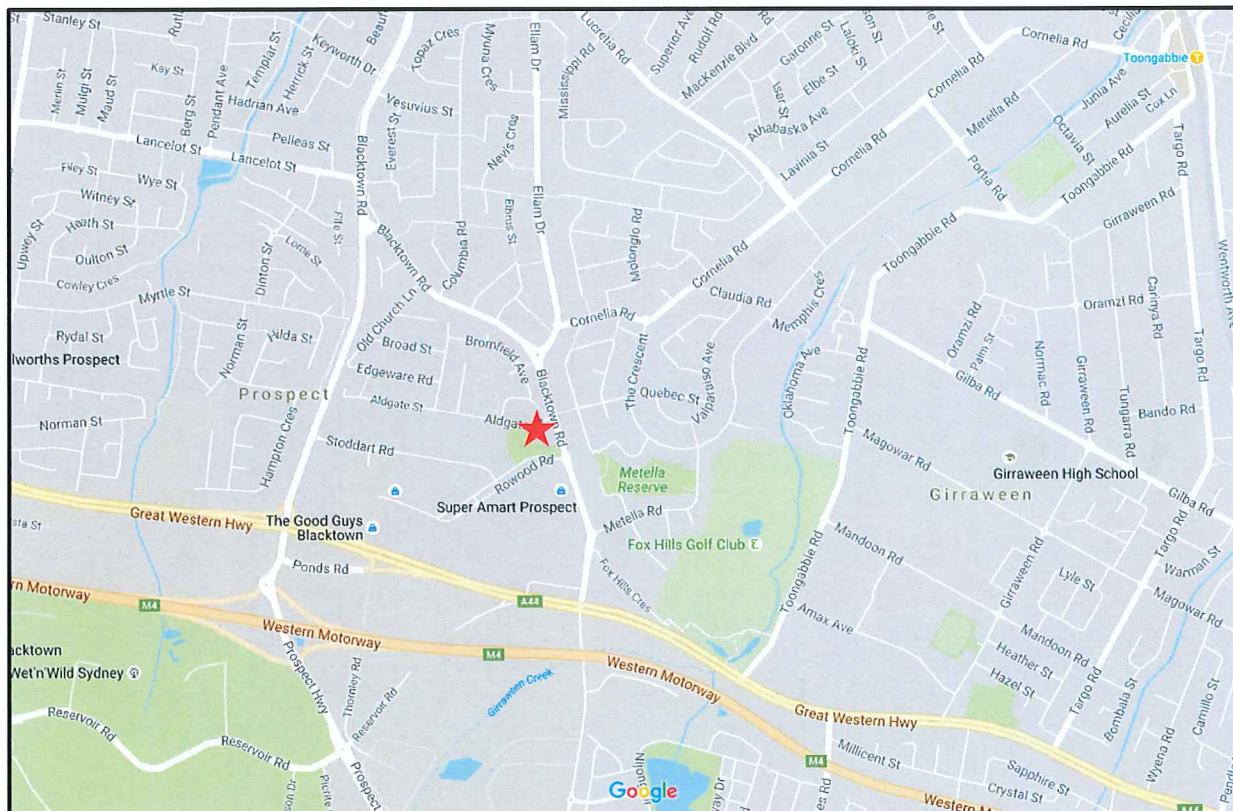


Figure 2. Location map (Google maps, 2016)



Figure 3. Nearmap captured 9 September 2016 (Nearmap 2016)

### 3. Site description

3.1 The site is identified as Lot 102 DP 801310, known as Lot 102 Aldgate Street, Prospect.



- 3.2 The site is an irregular shape (due to the curve in Aldgate Street at the eastern end of the site), with a frontage of 103.21 m to Aldgate Street, a depth of between 42 m and 49 m and a rear boundary of 102.5 m.
- 3.3 The total site area is 4,477 sqm. It is characterised by a slight slope, dropping 2 metres from Aldgate Street to the south-east corner of the site. A substantial portion of the site cannot be developed for buildings due to the existing transmission lines that pass through the site. There are several easements on the title associated with drainage and the transmission line.
- 3.4 At present the site is vacant land. The site contains a number of substantial trees, most of which are proposed to be removed for the proposed building and carpark area.

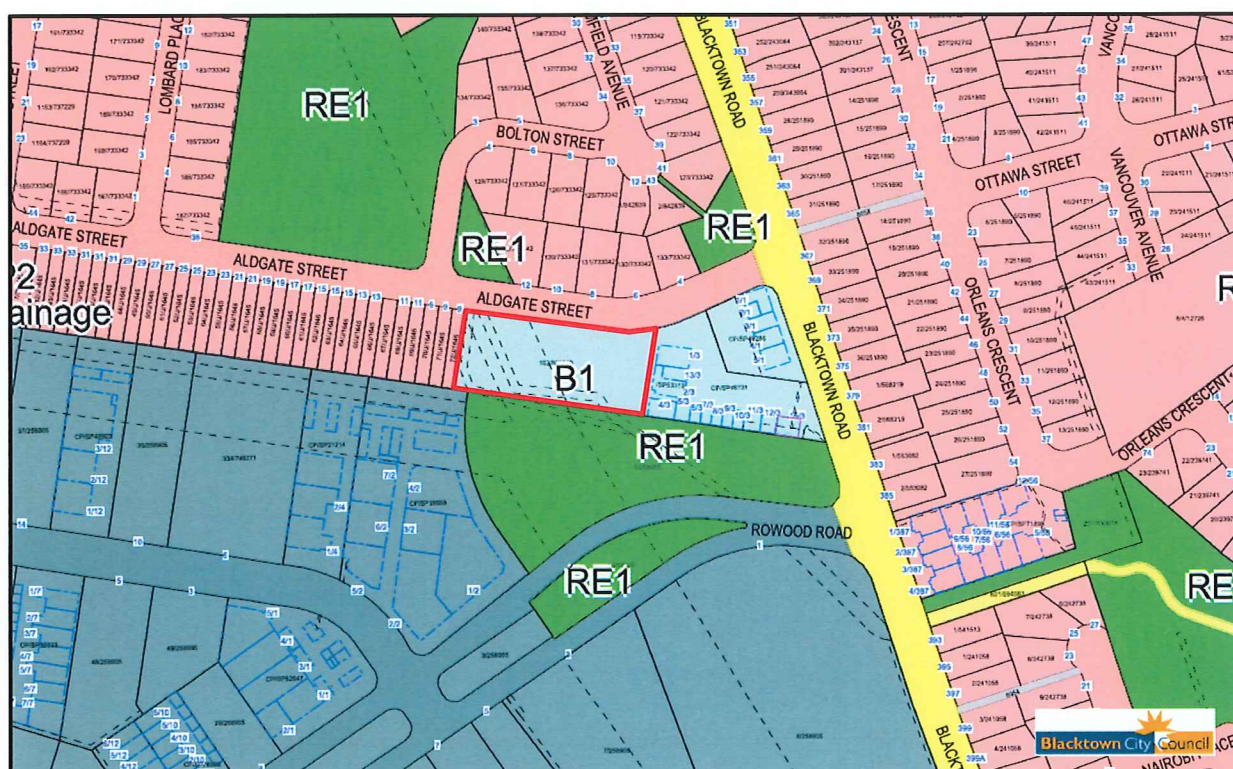


Figure 4. Zoning extract (BCC, 2015)

## 4. Background

- 4.1 The site was previously zoned 3(a) General Business under Blacktown Local Environmental Plan 1988. On 7 July 2015, the site was rezoned to B1 Neighbourhood Centre under Blacktown Local Environmental Plan 2015.
- 4.2 The site is subject to remediation works being carried out on the site due to the previous dumping of asbestos material within the reserve. A Remediation Action Plan for the site has been prepared for Council by SLR Consulting Australia Pty Ltd. The remediation works will be carried out by Blacktown City Council to ensure the site is suitable for future commercial/residential development, following which a Validation Report, to confirm its validation to the strict residential threshold, will be required prior to the release of a Construction Certificate for the site.
- 4.3 The original DA was lodged on 2 November 2015. The DA sought approval for the construction of a 4 storey 'shop top housing' development containing 2 buildings. The proposal incorporated ground floor retail space and 37 residential units on top. Car parking was proposed at-grade, as well as over 2 basement car parking levels.



- 4.4 Following notification and an initial assessment, the proposal was redesigned in response to Council and community concerns. Revised plans to downsize the proposal were submitted on 18 May 2016.

## 5. The revised proposal

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- 5.1 The amended DA seeks approval for tree removal and the construction of a 3 storey shop top housing development. The proposal contains 7 parallel ground floor shop spaces totalling 1,294 sqm, above which are 22 residential apartments over 2 levels, with car parking for 78 vehicles.
- 5.2 The residential component consists of 6 x 1 bedroom units, 14 x 2 bedroom units and 2 x 3 bedroom units. The ground floor residential lobby is at street level where the letterboxes are located. From the lobby, a lift and stairs provide access to the 1<sup>st</sup> floor common open space terrace only. Residents who seek access from the street using this lift need to cross the terrace to the rear of the building, without covered protection, to access most units. Separate stairs and 2 separate lifts provide access to the 2<sup>nd</sup> floor units (third storey) and these 2 lifts also provide access from the basement carpark.
- 5.3 Landscaped common open space is provided for the apartments on the ground level at the front of the site adjacent to the shops, at the rear of the building, and on the 1<sup>st</sup> floor terrace, around which the units are placed. No common open space is provided on the roof. Construction of the new building and carpark necessitates the removal of most of the trees on site. Four trees will be retained. Existing trees will need to be removed as part of the site remediation work required to resolve the existing site contamination. Landscaping of the ground level common open space and the western carpark boundary will shield the proposal from residential homes to the west. Deep soil zones are provided in the ground level landscaped and communal open space areas. A copy of the landscape plan is at **Attachment 2**.
- 5.4 The 78 car parking spaces include 34 spaces provided at grade (including 2 disabled spaces) on the western side of the site below the electricity transmission lines. A further 44 spaces (including 3 disabled spaces) are located in the basement level of the building. Of these spaces, 45 spaces are to satisfy the non-residential component and 33 spaces are for the residential component of the development. Provision is made for 4 bicycle spaces in the basement.
- 5.5 Vehicle access to the site for both cars and trucks is provided at the western end of the site from Aldgate Street. Access to the basement is through the external parking area via a ramp at the rear of the building. A loading dock and separate truck entry and truck turning area are provided, adjacent to the external carpark. Separate residential and non-residential garbage bin collection areas are provided at ground level.
- 5.6 The maximum building height of the development is 11.8 m, complying with the maximum height limit of 12 m under BLEP 2015, although lift overruns are not shown on the plans. Facing the street, the building has a height of 5.0 m (including the balustrade on the terrace above the shops). The façade then steps back between 2.8 and 5.4 m for the 2 levels of apartments that reach 11.2 m in height at the front. The roof is flat, slightly sloping from the front to the rear of the building. An assessment of the proposal's compliance with BLEP 2015 is provided at **Attachment 5**.
- 5.7 The proposal seeks a variation to the BDCP 2015 setback controls. The front setback varies from 2.8 m to 7.5 m for level 1 and 4.2 m to 7.5 m (excluding balconies) for level 2. This represents a significant reduction to the 9 m setback requirement. While a large setback may be desirable for a residential flat building, this reduction is considered acceptable for shop top housing. A reduction in the eastern side setback is also proposed. Along the eastern boundary the private open space terraces above the shops have a zero setback. This lack of setback will only be acceptable if consent conditions



ensure the privacy of any future development on the existing Prospect Shopping Village on the eastern adjacent site. The assessment of the setback variation is undertaken in Section 9 below. An assessment of the proposal's compliance with the development standards in BDCP 2015 is at **Attachment 6**.

- 5.8 The proposed material finishes and colours include grey colorbond roof sheeting, painted AFS walling system, alucabond silver finish blade walls, parapet walls, aluminium framed glass commercial shopfronts, powdercoated black aluminium framed windows, glass sliding doors and sunshade louvres.
- 5.9 A Design Verification Statement prepared by Alfred Jury of AMG Developments Pty Ltd has been submitted for the development, in accordance with the requirements of SEPP No. 65. An assessment of the design under SEPP No. 65 and the Apartment Design Guide is provided at **Attachment 4**.
- 5.10 The applicant has submitted a Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd. The report assesses the suitability of the proposed vehicle access arrangements, the potential traffic implications of the proposal in terms of road network capacity and the adequacy of the proposed parking provision. The report concludes that there are no traffic engineering reasons why the DA for the proposal should be refused. In this regard, an independent traffic consultant has reviewed the development on behalf of Council. Traffic is discussed below under Section 9 *Key issues* and Section 10 *Public comment*.
- 5.11 The Traffic, Business Zone and Noise Impact Assessment prepared by Acoustic Noise and Vibration Solutions Pty Ltd makes recommendations for ensuring the amenity of residents and neighbours. Conditions of consent will ensure that these recommendations are implemented (**condition 3.7.1**).
- 5.12 A BASIX certificate, tree survey plan, waste management plan for the proposal have been submitted with the DA.
- 5.13 As the site is affected by an electricity transmission easement 30.48 m wide, the applicant has consulted with Endeavour Energy, as required by Council, prior to lodging the DA. The response of Endeavour Energy dated 14<sup>th</sup> October 2015, was submitted with the original DA, as discussed below under Section 6 Planning Controls. Conditions of consent will ensure the requirements of Endeavour Energy are included (**condition 3.13**).
- 5.14 The development plans are included at **Attachment 2**.

## 6. Planning controls

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

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

For an assessment against the Section 79C 'Heads of Consideration' refer to **Attachment 3**.

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

SEPP (State and Regional Development) 2011 nominates 'Regional Development' as listed in Schedule 4A of the Environmental Planning and Assessment Act 1979 to be referred to the Joint Regional Planning Panel (JRPP) for determination. The proposed development constitutes 'Regional Development' requiring referral to a JRPP as the proposed development is located on land owned by Blacktown City Council and has a Capital Investment Value of more than \$5 million. While Council is responsible for the assessment of the DA, determination of the DA will be made by the Sydney West Joint Regional Planning Panel.



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

SEPP (Infrastructure) 2007, clauses 45(1)(b) and 45(2), apply to development carried out within or immediately adjacent to an easement for electricity purposes. The consent authority must, before determining a development application:

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

The applicant referred the original DA plans to Endeavour Energy, as required by Council, prior to lodging the DA. The response of Endeavour Energy dated 14 October 2015 was submitted with the original DA, which states that Endeavour Energy has no objection to the plans supplied subject to agreement in writing to a number of listed conditions.

The DA was separately referred to Endeavour Energy by Council, as listed below in Section 7 *External Referrals*. Conditions of consent will ensure the requirements of Endeavour Energy are included.

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

- i. Clause 7 Contamination and remediation to be considered in determining development application*

SEPP No. 55 aims to “provide a State wide planning approach to the remediation of contaminated land”. Clause 7 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of a development consent.

The site was previously used for the disposal of building material, including asbestos, and Council has identified that remediation of the site is required. The Remediation Action Plan prepared for the site by SLR confirms that the site will be suitable for the proposed development once the remediation of the site and a Site Validation Report have been undertaken.

Suitable site contamination conditions will be imposed to ensure that the remediation work is carried out in accordance with the Remediation Action Plan and a Validation Report is prepared prior to the issue of any Construction Certificate. The site will have to be remediated and validated to strict residential use thresholds as set out in the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 as amended 2013 (**condition 3.9.5**).

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

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

- i. Clause 28 Determination of development applications*

Clause 28 of SEPP No. 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, and
- (c) the Apartment Design Guide.

Blacktown City Council does not have a design review panel. However, Council's assessing officer's comments in relation to the 9 design quality principles and assessment against the relevant design concepts and numerical guidelines of the ADG is held at attachment 4. The development complies with the 9 design principles and the ADG.

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

A BASIX Certificate was lodged as part of the Development Application for the residential component of the proposed building. The Certificate identifies that the building achieves the required water, thermal comfort and energy scores required. A suitable condition will be imposed on any development consent requiring compliance with the submitted BASIX Certificate (**condition 2.3.1**).

**(g) Blacktown Local Environmental Plan (BLEP) 2015**

The site is within zone B1 Neighbourhood Centre under BLEP 2015. Retail premises (other than pubs), office premises, business premises and shop top housing are permissible within the B1 zone with consent. **Attachment 5** provides a summary of the development's compliance with the provisions of BLEP 2015.

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

BDCP 2015 applies to the site. **Attachment 6** outlines the proposal's compliance with BDCP 2015. The development complies with the development standards, with the exception of setbacks and building separation. These variations are discussed in detail in Section 9.

## 7. External referrals

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

Authority	Comments
<b>Endeavour Energy</b>	Endeavour Energy reviewed both the initial plans and the revised plans. No objections were raised subject to the imposition of appropriate conditions of consent, including the signing of an agreement with Endeavour Energy, with conditions in relation to the treatment of the easement, materials and clearance heights.
<b>Bitzios consulting (independent traffic consultant)</b>	<p>As part of the independent review of the DA, Council's Traffic Section engaged an independent traffic consultant to review the development proposal and its traffic and parking implications both internally and on the surrounding road network. The traffic consultant identified a number of internal design issues, which have since been rectified in amended plans and/or imposed as conditions of consent (<b>conditions 4.4.1 and 4.4.2</b>).</p> <p>In addition, the traffic consultant identified that a traffic solution at the intersection of Blacktown Road and Aldgate Street is required. The consultant did identify that a roundabout was the most viable option, however, a seagull arrangement at the intersection would also perform well. Council's Traffic Management Section has reviewed this recommendation and, given the proximity of this intersection to the existing roundabout at Blacktown Road and Rowood Road, an alternate traffic solution in the form of a right turn seagull bay is considered more appropriate</p>



Authority	Comments
	<p><b>(condition 3.14).</b></p> <p>The traffic consultant also raised a number of matters related to the operation of Blacktown Road unrelated to this application. Council's Manager Access and Transport Management will investigate these separately.</p>

## 8. Internal referrals

8.1 The DA was referred to internal sections of Council for comment as summarised below:

Section	Comments
<b>Engineering</b>	No objections subject to conditions ( <b>conditions 6.4, 6.6.2 and 9.5</b> ).
<b>Building</b>	No objections subject to conditions ( <b>conditions 5.1 and 8.2</b> ).
<b>Traffic Management Section (TMS)</b>	Council's Traffic Management Section has reviewed the independent traffic report prepared by Bitzios Consulting. It supports the findings of the report, with the exception of the traffic solution at Blacktown Road and Aldgate Street. This is discussed in Section 9 <i>Key issues</i> below.
<b>Waste Services</b>	No objections subject to conditions ( <b>conditions 3.15 and 10.19</b> ).
<b>Environmental Health</b>	No objections subject to conditions ( <b>conditions 3.9 and 10.17</b> ).

## 9. Key issues

9.1 As now revised, the proposal is generally consistent with the relevant planning instruments and the controls contained within them. The issues that require attention are mostly matters of detail. Some are not of sufficient importance to warrant attention. Others may require the imposition of appropriate conditions. An assessment of the key issues relating to the proposed development is presented below:

### (a) Setbacks

The following table identifies the proposed setbacks in comparison to the minimum setbacks established by the DCP and SEPP No. 65/ADG.

Element	DCP	SEPP No. 65	Proposal	Complies
Front				
- ground	N/A	N/A	Nil	Yes
- first	N/A	N/A	Variable 3 m (lift) to 7.5 m	Yes
Side (eastern adjoining B1 zone)	6 m	6 m	Nil (balcony/terrace) 6 m (building)	No Yes
Side (western adjoining R2 zone)	6 m	9 m (additional setback given change in zone)	Minimum 35 m	Yes
Rear	6 m	6 m	8 m	Yes

As can be seen from the table, the applicant seeks the following setbacks:

- Front setback at the podium and upper level of 7.5 m for the residential units in the building and between 3 - 3.5 m for the lift and stairs on the 1<sup>st</sup> level.

- Side setback of nil for the podium level terraces on the eastern boundary, where the minimum is 6 m.

These setbacks must be considered in the context of the proposal being shop top housing. As such, the proposal is neither a residential flat building nor a retail development. It is also relevant that the DCP controls are intended to apply to shop top housing within a major commercial centre, not a neighbourhood centre. Justification for each setback variation is discussed below.

Front setback: Locating the building on a zero setback at ground level is appropriate for shops in a neighbourhood centre. The precise nature of the shop uses is not known at this stage, but they may consist of a wide variety of businesses. Above the shops, should the development be made to comply with the residential flat building controls of the Blacktown Development Control Plan, a setback of 9 m would be required, while the Apartment Design Guide allows a 6 m setback. However, given the commercial zoning of the site, compliance with the residential flat building controls is considered unreasonable as the site could be developed as a 3 storey commercial building with zero setbacks. The applicant argues that the proposed 7.5 m setback is “an appropriate urban design response to the site’s opportunities without negatively impacting upon the streetscape presentation of the development.” This neighbourhood shopping centre is within a residential area where 7.5 m is the accepted standard for the front setback for houses. The proposal reflects this established pattern for the upper levels. As the development is on the southern side of Aldgate Street, the reduced setback will have no impacts on overshadowing of residential neighbours. There are also no impacts on the adjacent residence to the west. In this context it is considered that nothing would be gained by enforcing a 9 m front setback for the upper levels of the development.

Eastern side setback: Along the eastern boundary of the site the roof area above the ground level shops is intended to be utilised as terraces for the units on the first level. The apartments respect the 6 m setback, but the private outdoor terraces extend to the boundary. Immediately adjacent to the boundary, planter boxes provide a physical setback of 1 m. This allows for generous terraces that extend for 5 m from the respective units and only 1 m from the boundary. The applicant states this is an appropriate design response because the terraces adjoin the rear of the adjoining shops, and that building does not contain any windows. However, the applicant’s request for a variation to the minimum setback does not acknowledge that, while the adjoining site has existing ground floor shops, it also has the potential for redevelopment as shop top housing. Whilst the adjoining owner did not object to the proposal, the applicant’s argument is not supported.

It is appropriate to determine the treatment of this eastern boundary as if a similar development was located on the adjacent site. Such a treatment must provide a visual, acoustic and physical separation to ensure that the future development of the adjacent site is not compromised. As a minimum, the extent of these terraces should be reduced to 4 m from the respective apartment. The remaining 2 m adjacent to the boundary should consist of 2 planter boxes, each 1 m wide. There should be a lower planter box adjacent to the boundary and a higher planter next to the terrace. The wall between the two planter boxes should be topped with a permanent physical barrier having a height of 2 m above the level of the terrace. In this way there will be an effective barrier, but the visual impact of the solid barrier should be reduced by vegetation on both sides of the barrier. These changes will be included as conditions in the consent (**condition 4.1.1(a)**).



**(b) Communal open space**

A request has been submitted by the applicant for a variation to the requirement for communal open space. Details are not provided as to how this has been calculated by the applicant. This assessment has concluded that the Blacktown DCP 2015 requirement for communal open space at ground level is satisfied. However, it must be ensured that the areas nominated as 'common open space' are retained for open space purposes for residents and not converted for other activities. In particular, the principal area adjacent to Shop 7 where the existing trees are retained must not be used for purposes associated with Shop 7. This outdoor area must be available for residents and, for example, not converted into an outdoor eating area if Shop 7 is utilised for a café. This will be conditioned in the consent (**condition 4.1.1(b)**).

On the podium level several areas are identified as common open space even though they are unsuitable for this purpose. They are too narrow, of no practical use and would potentially reduce privacy. These areas should be incorporated into the private open space/courtyards for the respective apartments U2 and U14. This will be conditioned in the consent (**condition 4.1.1(c)**).

**(c) Access and entrances**

This building contains only 22 apartments, but is served by 3 lifts. Even so, access for residents and visitors is unsatisfactory. For example, undercover pedestrian access is not provided to any apartments from Aldgate Street. Disabled access to the 2 lifts at the rear from ground level relies on a chair lift. These entrances are narrow, uncovered and not prominent within the rear façade. Again this is unacceptable. A superior solution would be for the layout of the shops to be redesigned so that Shops 3 and 4 open onto an internal passage between the front foyer and the rear lifts. This would provide better access, and allow one lift to be removed and fire access to be improved. This will be conditioned accordingly (**condition 4.1.1(d)**).

With the proposal in its current form, it is considered that the rear lifts should be considered to be the principal means of access to the apartments. The foyer on the street frontage would be the secondary entrance. The area to the south of Shops 5 and 6 should be redesigned to incorporate a foyer, improve disabled access and provide an entrance that is prominent and visible from the on ground car parking area (**condition 4.1.1(e)**).

**(d) Acoustic impact**

A noise impact report prepared by Acoustic Noise and Vibration Solutions Pty Ltd was submitted with the initial application. Various noise-related issues were evaluated in the study. Any noise issues can generally be addressed through standard conditions of consent that relate to construction details. The report concludes that the proposed development and its associated mechanical plant will not adversely affect nearby residential receivers and will comply with the requirements of the NSW Industrial Noise Policy and Council requirements, provided that the recommendations within the report are adhered to. The recommendations include a special condition to mitigate the potential impact of noise on a neighbour from plant, equipment and garbage collection. Specifically, the report recommends that a 2.1 m high fence be erected on the western boundary to protect the nearest residential noise 'receiver,' being 9 Aldgate Street. As this barrier is required for noise attenuation and it is higher than a standard dividing fence, it is appropriate that the same timber barrier be erected wholly within the development site. A special condition is recommended to require the erection of a 2.1 m high timber acoustic barrier parallel to the western boundary,

but no closer than 100 mm to that boundary. This will be conditioned in any consent granted (**condition 4.1.1(e)**).

**(e) Tree removal and landscaping**

The trees on the site at present cannot be retained due to the nature of the site, its previous use and the zoning. These constraints also limit the potential for replacement tree planting. On the western section of the site, trees are not permitted due to the location of the overhead electricity cables. A large stand of trees exists in the south-eastern section of the site, in the vicinity of the stormwater swale. Unfortunately most of these trees cannot be retained as they will be affected by remediation works. It will be possible to retain 4 trees within the common open space on the site. In the south-western section of the site 5 eucalyptus will be planted. Given the circumstances of the site, this is considered a satisfactory solution.

**(f) Traffic implications**

As part of the independent review of the DA, Council engaged an independent traffic consultant to review the development proposal and its traffic and parking implications, both internally and on the surrounding road network. The traffic consultant identified a number of internal design issues, which have since been rectified in amended plans and/or imposed as conditions of consent (**conditions 4.4.1 and 4.4.2**).

The traffic consultant identified that a traffic solution at the intersection of Blacktown Road and Aldgate Street is required. The consultant did identify that a roundabout was the most viable option, however, a seagull arrangement at the intersection would also perform well. Council's Traffic Management Section has reviewed this recommendation and, given the proximity of this intersection to the existing roundabout at Blacktown Road and Rowood Road, an alternate traffic solution in the form a right-turn seagull bay is considered more appropriate by it (**condition 3.14**).

**(g) Adaptable apartments**

The application states that 3 apartments are adaptable. A diagram has been submitted to illustrate that the apartments satisfy the Australian Standard. However, this is not reflected in the plans. A condition is required to ensure that the three apartments satisfy AS 4299, AS 1428.1 and AS 1428.2.

## **10. Public comment**

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10.1 The initial DA was notified between 19 January and 2 February 2016. In response to the exhibition, 33 individual submissions were received as well as a petition with 238 signatures. Concerns included:

- Inconsistent with character of local area/negative impact on locality
- Scale/size of the development
- Traffic impact on the surrounding road network
- Inadequate provision of car parking
- Privacy impact
- Noise impact
- Building design



- Tree removal
- Stormwater impact
- Hours of operation
- Waste management
- Building height
- Crime impact.

A summary of the objections and town planning response to these issues is provided at **Attachment 7**.

10.2 In response to Council officer concerns and submission concerns, the applicant has submitted the revised proposal for assessment.

10.3 The revised proposal was notified to adjoining and nearby property owners and occupants for a period of 14 days from 6 to 20 July 2016. An advertisement was also placed in the local newspaper and a notification sign erected on site.

10.4 In response to the public notification, **5 individual submissions were received, one in support of the proposal and 4 objections**. The location of the persons who made submissions is identified on the map below:



- ★ Individual submission – first notification
- ◆ Petition signatory – first notification
- ▲ Individual submission – first and second notification
- Submission in support of DA

*Note: In some cases, multiple submissions were received from the same address, or properties more than 200 m from the development site and have not been mapped*

**Figure 5. Location of submissions**

10.5 Points made in support of the development include:

- (a) The development will provide a much needed footpath on the southern side of Aldgate Street to access the shops and Blacktown Road bus stops.

**Town planning comment:**

- This will be conditioned as part of any approval (**condition 3.10.3**).

- (b) The development will require remediation of the former landfill site that is contaminated with building rubble and replacement planting of existing native trees that are removed.

**Town planning comment:**

- This will be conditioned as part of any approval, including landscaping embellishment of the site (**condition 4.3.2**).

- (c) The extension will be made further popular by the proposed double decker bus route 700 Parramatta-Blacktown.

**Town planning comment:**

- Noted. This is a matter for Transport NSW.

10.6 The concerns that have been raised in the submissions are summarised below, with town planning comments provided:

**(a) Scale and type of development**

*It is submitted that the proposed development will cause safety and privacy problems for the 4 dwellings in Aldgate Street opposite the site. These privacy and safety issues arise from overlooking into the front and back yards, and the bedrooms of the houses. This illustrates that the use is not appropriate to the area, 3 storeys is too high, and not in keeping with the design and character of the area. This development was not permissible when this resident of Aldgate Street purchased the property 6 years ago. The development will adversely impact on property values.*

*Retail tenancies will negatively affect the community. Existing shops struggle to survive, attract robberies and encourage loitering and drinking in the neighbourhood. Retail tenancies increase the potential for crime. Possible problems will arise from people congregating on the public pathway through the site. Additional noise and traffic congestion will be generated due to deliveries, garbage, cars and pedestrians. Hours of operation could be very early to very late. Garbage collection problems, from smell and other hazards such as feral animals, bins left on the street and increased noise.*

**Town planning comment:**

Permissibility

- As the development is a permissible land use within the zone, and is, in the main, compliant with the development controls established within BLEP 2015 and BDCP 2015, the approval of the development is considered to provide for additional housing types and neighbourhood centre needs, near public transport.
- The site was previously zoned 3(a) General Business under Blacktown Local Environmental Plan 1988 and is currently zoned B1 Neighbourhood Centre under BLEP 2015. Shop top housing and various commercial uses are



permissible in the zone up to a height of 12 m.

- The development is considered to meet the objectives of the B1 zone, which includes:
  - To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
  - To allow development that is compatible with the scale and form of the surrounding area.

#### Property values

- The site is considered a compatible land use within the locality. However, impact on property values is not a specific matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

#### Privacy concerns

- The apartments on levels 1 and 2 are setback on the podium and would have great difficulty overlooking the backyards of houses opposite in Aldgate Street that are elevated above the subject site. The development is only one storey higher than permitted on neighbouring residential properties. There will however be a change in the outlook for some neighbouring properties opposite. They currently overlook open space with trees, many of which will be removed due to the site remediation works and new construction. The proposed building adjacent to 9 Aldgate Street in the original DA proposal has been removed and replaced with landscaping.

#### Retail viability

- No submissions were received from any tenants or owners of the adjacent shops concerning economic impact. Future occupation and hours of operation of the proposed ground floor space will be the subject of a separate approval. All deliveries and garbage collection will be made on the site itself, with a loading dock and separate closed garbage rooms provided for residents and commercial uses. These matters will be addressed by conditions of consent (**condition 11.6.2**).

### **(b) Traffic and parking**

*It is argued that access in and out of Aldgate Street at Blacktown Road is already difficult during peak hours, with accidents and near misses. Additional traffic generated by units and shops would make this a dangerous, congested area. Also, impacts on local roads Bolton Street, Fenchurch Street and Old Church Lane will arise as traffic avoids the Aldgate Street/ Blacktown Road intersection.*

*The bend in Aldgate Street, near Blacktown Road, makes it difficult to enter the existing shopping centre when cars are parked. Providing a single car access to the site is negligent if there is an emergency for ambulance and police access.*

*The residents are likely to lose car parking space in front of their Aldgate Street houses, and the exiting driveways will be unsafe with the increase in cars and parking. Cars accessing the development at night will direct lights that shine into houses at night, causing change to lifestyles and a financial impost to rectify. Increasing traffic near Prospect Park will expose children to further traffic hazards.*

*The Acoustic Report shows in 'Fig 3 Noise Reading Locations' an aerial photo taken on a Sunday when the shopping centre is quiet with many existing shops closed.*

**Town planning comment:**

- All parking for the proposed development is provided on site, in accordance with BDCP 2015.
- The Traffic Business Zone and Noise Impact Assessment undertaken for the proposal by Acoustic Noise and Vibration Solutions Pty Ltd states that noise measurements were undertaken between Thursday 22 October and Monday 26 October 2015.
- Council's Traffic Management Section has reviewed the proposal and raised no objections. The Traffic and Parking Impact Report by ML Traffic Engineers, submitted with the DA, concluded that the additional trips generated by the proposal can be accommodated at the nearby intersection without noticeably affecting intersection performance, delays or queues and that there are no traffic engineering reasons why the development proposal should be refused. Therefore, the local road network is considered capable of serving the development and locality, and parking and vehicle movement into the site is satisfactory.
- As identified in Section 9 above, suitable conditions will be imposed on any consent requiring a traffic solution at the intersection of Blacktown Road and Aldgate Street. This will require the provision of a seagull right-turning area to alleviate the existing traffic situation (**conditions 3.14 and 10.16**).

**(c) Trees**

*Removal of trees means native birds will go elsewhere. Cumberland forest needs to be protected. The proposal will affect visual outlook from properties in Aldgate Street, with shops, apartments and car parking instead of open space with trees.*

**Town planning comment:**

- Unfortunately many trees will need to be removed due to the contamination found on the site. However, 2 large trees at the front of the development will remain in the ground level communal open space and 2 at the rear of the development. A large area on the western side of the carpark adjacent to 9 Aldgate Street will be landscaped with trees and shrubs to address the loss of vegetation. A separate pedestrian footpath will provide public access through the site from Aldgate Street to the park immediately to the south of the site where the existing trees will be retained.

**(d) Stormwater**

*Due to the existing stormwater problem in Aldgate Street, anticipate flooding from the development with more surface runoff and Peter Winter Park (immediately to the south) less able to absorb water.*

**Town planning comment:**

- Council's Development Engineers are satisfied with the proposed works to manage stormwater on the site.
- Detailed conditions have been provided to ensure the applicant meets all Council's drainage requirements (**conditions 6.62 and 10.4**).

**(e) Electricity Towers**

*Electricity towers are a danger and residents living under them could become sick.*



**Town Planning comment:**

- The development is not located directly below the electricity transmission cables. The development is permissible on the site and the easement provides the necessary distance required by the electricity authority to manage its infrastructure.
- In addition, the applicant is required to meet Endeavour Energy's requirements regarding proximity of this development to its infrastructure and suitable Endeavour Energy conditions have been imposed to ensure the development meets these requirements (**condition 3.13**).

## **11. Section 79C consideration**

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11.1 Consideration of the matters prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 is summarised in **Attachment 4**.

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**

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

12.2 The objectors are advised of the Panel's decision.



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