

Report to Sydney Central City Planning Panel

Panel reference	2016SYW072 DA
DA number	JRPP-16-03305
Proposed development	2 x 18 storey mixed use buildings, including retail premises, serviced apartments, commercial premises and residential apartments
Street address	9-17 Second Avenue, Blacktown
Applicant/owner	Fauborg 24 Pty Ltd (Applicant) Better Buildings Pty Ltd (Owner of 11-17 Second Avenue, Blacktown) Australia's Sun International (Sydney) Pty Ltd (Owner of 9 Second Avenue, Blacktown)
Date of DA lodgement	24 March 2016
Number of submissions	0
Regional development criteria (Schedule 4A of the EP&A Act)	Capital investment value (CIV) over \$20 million (DA has CIV of \$85.096 million)
All relevant s79C(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Blacktown Local Environmental Plan (BLEP) 2015 • Blacktown Development Control Plan (BDGP) 2015
Report prepared by	Blacktown City Council
Report date	27 October 2017
Recommendation	Approval subject to conditions

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s94EF)? N/A

Conditions

Have draft conditions been provided to the applicant for comment? Yes

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ATTACHMENTS

- Attachment 1 – Location map
- Attachment 2 – Aerial image
- Attachment 3 – Zoning extract
- Attachment 4 – Detailed information about proposal and DA submission material
- Attachment 5 – Development application plans
- Attachment 6 – Assessment against planning controls
- Attachment 7 – Applicant's Clause 4.6 request
- Attachment 8 – Council assessment of Clause 4.6 request
- Attachment 9 – Draft conditions of consent

1 Executive summary

- 1.1 This report considers a proposal for demolition of existing structures and the staged construction of 2 x 18 storey mixed use buildings, including retail premises, serviced apartments, commercial premises as well as residential apartments at 9 to 17 Second Avenue, Blacktown.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is therefore satisfactory when evaluated against Section 79C of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions, including a deferred commencement condition.

2 Key issues list

- 2.1 The key issues that need to be considered by the Panel in respect of this application are:
 - a. **Building height variation** (Section 7) - The applicant seeks a building height variation of 7.2 %. This is for plant and equipment up to 4 m above the permissible height limit. The variation has been assessed and is considered acceptable on its merits subject to being integrated into architectural roof features.
 - b. **Building separation** (Section 7) – The applicant seeks a reduced building separation to a minimum 6 m between the buildings, which is non-compliant with the numerical building separation under the Apartment Design Guide which requires from 12 m up to 24 m building separation for buildings of this height. However, The Apartment Design Guide also allows for reduced building separation. The proposed building separation does meet the daylight access, urban form context and acoustic and visual privacy objectives of the control. Further, the 6 m building separation is consistent with similar developments within the Blacktown CBD. The reduced building separation is therefore considered satisfactory on its merits.
 - c. **Deferred commencement** – A deferred commencement condition has been recommended, requiring a flood study and report for the proposal. This is required as the development lies downstream of a small catchment that extends across Sunnyside Road and up to Sarsfield Street. During large storm events, the existing drainage pipes will fill and overflow and the excess surface flow will travel along the roadway. The deferred commencement condition is recommended so that Council can be assured that the development itself has been appropriately protected from the surface flows.

3 Location

- 3.1 The site is located within the Blacktown Central Business District (CBD) on the northern side of the railway line.
- 3.2 The location of the site is shown in **Attachment 1**. The land immediately to the north, south, west and east of the site is zoned B4 Mixed Use. The land to the north, south and west has a building height limit of 56 m and the land immediately to the east has a building height limit of 64 m.

- 3.3 The site is located approximately 235 m north-east of Blacktown Station on the western rail line.

4 Site description

- 4.1 The site is a regular shaped corner lot, with road frontages to Second Avenue and Prince Street. The total site area is 4,092 sqm.
- 4.2 The site comprises 4 separate allotments. The current registered land is Lots 96 to 99 DP 11157. Lots 96 - 98 are vacant land and Lot 99 contains a single storey building currently used as a business premises.
- 4.3 An aerial image of the site and surrounding area is at **Attachment 2**.
- 4.4 The site is zoned B4 Mixed Use under the Blacktown Local Environmental Plan 2015 and has a height limit of 56 m. A copy of the zoning map is at **Attachment 3**.

5 The proposal

- 5.1 The Development Application (DA) has been lodged by Fauborg 24 Pty Ltd for the demolition of existing structures and the staged construction of 2 x 18 storey mixed use buildings.
- 5.2 Stage 1 comprises a single building on 11 - 17 Second Avenue consisting of:
- 3 ground floor retail premises
 - Serviced apartments on the first level
 - 16 levels of residential apartments with 227 residential units.
- Stage 2 comprises a single building on 9 Second Avenue consisting of:
- 1 ground floor retail premises
 - 4 commercial tenancies on the first and second levels
 - 15 levels of residential apartments with 59 residential units.
- 5.3 The applicant proposes the construction of 4 basement levels of car parking with 470 car parking spaces. A single vehicle access point is proposed to the basement as part of Stage 1 of the development, from Second Avenue.
- 5.4 The maximum building height of the development is 60 m. The development exceeds the maximum building height limit of 56 m by 4 m, but this pertains to only the lift overrun and structure associated with the communal open space on the roof level. The proposed height variation is discussed in detail in Section 8 below.
- 5.5 The proposal has an FSR of 6.499:1, which is compliant with the maximum FSR of 6.5:1 permissible on the site under BLEP 2015.
- 5.6 Stage 1 provides an L shaped ground floor podium. The proposal provides for a 1 storey podium built to the front and secondary street boundaries. The first and second floors have a zero setback to the northern property boundary and a 6 m side setback to the eastern boundary. The tower located on top has a 6 m to 34.9 m side setback to the eastern boundary and a 9.5 m to 16.5 m setback to the northern boundary.
- 5.7 Stage 2 provides a 3 level podium with zero setbacks to the side setbacks on the ground, first and second levels. The tower on top has a zero setback to the western boundary

adjoining Stage 1 and a 6 m side setback to the eastern boundary. A 12 m rear setback to the northern boundary has been provided for all levels.

- 5.8 Communal open space areas are provided on the ground floor as well as on the roof for each stage. These areas are embellished with BBQs, seating, turfed areas and tree shaded areas.
- 5.9 The buildings have been designed to have a built form articulated by the solid podium base with recessive levels above. The façade is segmented to provide articulation. A variety of materials and finishes are proposed including metal cladding and white and dark frames to give the building a modern and light appearance. Glass balustrades, white louvres and vertical metal cladding elements are proposed to give the building interest. Building materials will be required to meet fire safety standards.
- 5.10 A Design Verification Statement prepared by a registered architect, Aleksandar Jelcic of Aleksandar Design Group, has been prepared for the development, in accordance with the requirements of SEPP 65.
- 5.11 Other details about the proposal are at **Attachment 4** and a copy of the development plans is included at **Attachment 5**.

6 Assessment against planning controls

- 6.1 A full assessment of the DA against relevant planning controls is provided in **Attachment 6**, including:
 - a. Environmental Planning and Assessment Act 1979
 - b. State Environmental Planning Policy (State and Regional Development) 2011
 - c. State Environmental Planning Policy (Infrastructure) 2007
 - d. State Environmental Planning Policy No. 55 – Remediation of Land
 - e. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
 - f. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 - g. Blacktown Local Environmental Plan 2015
 - h. Draft West Central District Plan
 - i. Blacktown Development Control Plan 2015.

7 Key planning issues assessment

7.1 Building height variation to the Blacktown LEP development standard

- a. The proposal seeks to vary the building height by up to 4 m above the permissible height limit of 56 m for Stage 1 and by 3 m for Stage 2. For both buildings, the variation is sought only for the lift overrun and roof structures to provide access to the rooftop common open space. The maximum variation sought is equivalent to 7.2%.
- b. The variations relate only to encroachments of lift overrun, stairs and plant rooms. No element of a habitable floor or room is located above the height limit. The 18 storey buildings are considered to be consistent with the 56 m height limit permissible on the site.

The portions of the roof structures which exceed the height limit do not result in excessive bulk and scale and do not result in adverse shadow and amenity impacts on surrounding properties.

The additional height does not result in any additional yield and does not result in an additional residential storey.

Given that the additional height does 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 by providing access to rooftop common open space, it is considered that the proposed variation to the height standard should be supported in this instance.

- c. The applicant has submitted a written Clause 4.6 request to justify that compliance with the height development standard is unreasonable and unnecessary in this instance.

There are sufficient environmental planning grounds to justify varying this development standard. A copy of the applicant's written request is held at **Attachment 7**.

- d. Council officers consider that the variation will not have unreasonable impacts on the neighbouring properties or the character of the area. The proposed is also consistent with the objectives of the development standards and the B4 Mixed Use zone. Conditions are recommended to be imposed for the lift overrun and plant and equipment to be incorporated as an architectural roof feature to minimise the visual impact of the variation.

Attachment 8 details the Council officer assessment of the relevant Land and Environment Court matters for a consent authority to take into consideration when deciding whether to grant concurrence to the variation to the development standard.

7.2 Building separation

SEPP 65 requires that, when assessing an application, consideration must be given to the requirements of the Apartment Design Guide (ADG). The Council 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 m*
 - 12 m between habitable rooms / balconies
 - 9 m between habitable / balconies and non-habitable rooms
 - 6 m between non-habitable rooms.
- ii. *5 to 8 storeys / up to 25 m*
 - 18 m between habitable rooms / balconies
 - 13 m between habitable/balconies and non-habitable rooms
 - 9 m between non-habitable rooms.
- iii. *9 storeys and above / over 25 m*
 - 24 m between habitable rooms / balconies
 - 18 m between habitable / balconies and non-habitable rooms
 - 12 m between non-habitable rooms.

Above the 3 storey podium level, the proposed development provides:

- A zero setback to the front southern and western boundaries. The width of the adjacent roads (Prince Street and Second Avenue) ensures that the building separation requirements to any future development on the opposite side of these roads can be met
- A minimum 6 m setback to the eastern boundary
- A minimum 12 m setback to the northern boundary
- Internal building separation between the proposed Stage 1 and 2 buildings of 6 m.

The development complies with the required building separation to the northern boundary, providing a minimum 12 m setback. However, the proposed development does not provide 9 m – 12 m setbacks at levels 4 and above to the eastern boundary and therefore does not comply with the suggested building separation for its intended height. In addition, internally within the development, a 6 m building separation is provided between non-habitable rooms with no openings, which is desired to be 9 – 12 m under the ADG.

The ADG, however, is a guide only and allows building separation controls to be varied in response to site and contextual 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 have 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 70 % of units solar access requirement, in that 71% of the units receive a minimum 2 hours direct sunlight between 9 am – 3 pm in mid-winter. 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 October 2004
29 - 31 Second Avenue	JRPP-09-1574 20 storeys mixed-use	6 m – 16 m (point encroachments to 5 m)	Approved 26 August 2010
26 Second Avenue	DA-13-1143 9 storeys mixed-use	6 m (point encroachments to 3.5 m)	Approved 15 September 2014

Address	Development	Side Setbacks (above podium)	Determination
28 Second Avenue	JRPP-14-2593 24 storeys mixed-use	6 m (point encroachments to 4 m)	Approved 23 June 2015
2 - 10 First Avenue	JRPP-15-2087 18 storeys mixed-use	Minimum 6 m with no point encroachments	Approved 26 July 2016
16 Third Avenue	DA-15-00467 18 storeys mixed-use	3 m – 8 m	Approved 4 November 2016
16 Second Avenue	JRPP-15-02533 19 storeys mixed-use	Minimum 6 m with no point encroachments	Approved 4 April 2017

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 merit. The plans demonstrate a 6 m setback from the eastern boundary and will ensure that a minimum 12 m building separation is achieved between this development and the development on the adjoining site which is currently under construction. 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 predominantly oriented towards the streets (Second Avenue and Prince Street) or rear, which is compliant with the building separation requirements. The internal building separation of 6 m between the Stages 1 and 2 buildings is considered satisfactory as no openings are proposed on the elevations between these buildings.

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 necessarily warrant refusal of the application.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers within the locality between 9 and 23 August 2016. The DA was also advertised in the local newspapers, including the Blacktown Sun, and a sign was erected on the site.
- 8.2 During the notification period, no submissions were received.

9 External referrals

- 9.1 The DA was referred to the following external authorities for comment:

Section	Comments
Roads and Maritime Services	Acceptable subject to conditions
NSW Police	Acceptable subject to conditions

10 Internal referrals

- 10.1 The DA was referred to the internal sections of Council and is considered acceptable subject to conditions, based on the following:
- Council's City Architect has reviewed the design of the development. He is satisfied from a design perspective. Particular comments were provided in relation to satisfaction with the proposed massing of buildings and involving 6 m separation between buildings. This is acceptable as:
 - There is a 6 m setback from the boundary of the existing 1 - 7 Second Avenue proposal which is under construction
 - There is no direct line of sight between buildings
 - Blank, modulated walls are provided on both buildings facing each other where only 6 m apart.
 - Concept engineering design meets Council's development standards.
 - Parking provision satisfies the RMS Guide to Traffic Generating Developments.
 - The anticipated traffic movements due to the proposal are likely to be accommodated within the existing and proposed road network in the area.
 - Waste service vehicles can satisfactorily service the development.

11 Conclusion

- 11.1 The proposed development has been assessed against all matters for consideration 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. The site is considered suitable for the proposed development subject to conditions.

12 Recommendation

- 12.1 The development application be approved by the Sydney Central City Planning Panel subject to the conditions held at **Attachment 9**.
- 12.2 The submitter be notified of the Planning Panel's decision.



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