

<b>ITEM</b>	<b>77-79 Waldron Road, Chester Hill Demolition of existing site structures, construction of a four (4) storey boarding house comprising of forty nine (49) boarding rooms, a managers room, a communal room, a neighbourhood shop at ground floor level and associated car-parking.</b>
<b>JRPP REF.</b>	<b>2017SSH042 DA</b>
<b>FILE</b>	<b>DA-840/2017</b>
<b>ZONING</b>	<b>R4 – High Density Residential</b>
<b>DATE OF LODGEMENT</b>	<b>11 September 2017</b>
<b>APPLICANT</b>	<b>Hamptons Property Services Pty Ltd</b>
<b>SITE AREA</b>	<b>1,268.9m<sup>2</sup></b>
<b>OWNERS</b>	<b>Austciti Development Pty Ltd</b>
<b>ESTIMATED VALUE</b>	<b>\$6,783,097</b>

### **SUMMARY REPORT**

On 14 August 2018 this matter was reported to the Sydney South Planning Panel in accordance with the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*. The Panel resolved to defer the determination of the development application for the following reasons:

*“The panel agreed to defer the determination of the matter until required information is provided and the assessment is completed by council within 6 months of the date of the meeting.*

*The Panel determined to defer the application to enable the parking provision as required by the SEPP to be satisfactorily addressed by the applicant.*

*When this information has been received, subject to the satisfaction of Council, the panel will determine the matter electronically.*

...

*The Panel requires that the parking provision be met on site. The applicant needs to demonstrate that parking provision can be achieved without having additional adverse impacts on the amenity of the residents and the neighbouring properties. Accessibility, security, appropriate screening, and of ease of maintenance should be considered when developing an appropriate solution”.*

The applicant submitted amended documentation on 12 October 2018 including a revised proposal incorporating a basement level for parking. The primary changes are:

- The inclusion of a basement level to accommodate fifteen (15) car parking spaces and four (4) bicycle spaces;
- Rearrangement of the rear at grade parking area to enable a basement ramp and provide for thirteen (13) car parking spaces, ten (10) motorbike spaces and six (6) bicycle spaces;
- Rearrangement of the ground floor layout to accommodate the above mentioned changes including the relocation of the bin storage room, a redesign of the internal stairwell and a reduction in the size of the neighbourhood shop from 64m<sup>2</sup> to 39m<sup>2</sup>.

The revised proposal has been assessed against the relevant provisions of *State Environmental Planning Policy (Infrastructure) 2007*, *State Environmental Planning Policy No. 55 (Remediation of Land)*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Bankstown Local Environmental Plan 2015* and *Bankstown Development Control Plan 2015*. The revised proposal generally complies with the relevant planning controls. Any non-compliances (as originally presented to the Panel) and changes in compliance from the original application as a result of the recent amendments are highlighted in this report.

The amended application was re-notified for a period of fourteen (14) days. One (1) submission was received raising concerns relating to the setback of the basement, the location of the fire hydrant and the possibility of damage from the construction of the basement to the adjoining allotment.

The inclusion of the basement triggered additional concurrence from Sydney Trains under Clause 86 of *SEPP (Infrastructure) 2007*. The application was initially reviewed by Sydney Trains in respect to this provision on 15 October 2018. Advice was sought on the application of Clause 86 and the information required to accompany a formal referral. Sydney Trains advised six additional requirements including the concurrence fee, geotechnical and structural report including drawings, construction methodology, cross-sectional diagrams, a detailed survey plan and an FE analysis. This information accompanied a formal referral to Sydney Trains on 12 December 2018. Sydney Trains sought additional information on 21 February 2019 and Council enquired on the possibility of the additional engineering details requested being a Construction Certificate requirement. Sydney Trains requested this detail upfront and noted this documentation was required for concurrence. A complete submission to Sydney Train's satisfaction was submitted by the applicant on 26 February 2019. Formal concurrence was received from Sydney Trains on 28 March 2019.

The applicant has satisfactorily demonstrated the provision of additional parking in the form of a basement level is achieved without additional impacts on the amenity of the residents and the neighbouring properties. The basement has been assessed in regards to its accessibility and security. It is considered additional screening and ease of maintenance is no longer a concern as the applicant has proposed a basement as opposed to less desirable mechanical stackers.

**POLICY IMPACT**

This matter has no direct policy implications.

**FINANCIAL IMPACT**

This matter has no direct financial implications.

**RECOMMENDATION**

It is recommended that the application be approved subject to the conditions of consent set out in Attachment 'B' (draft conditions).

## **DA-840/2017 ASSESSMENT REPORT**

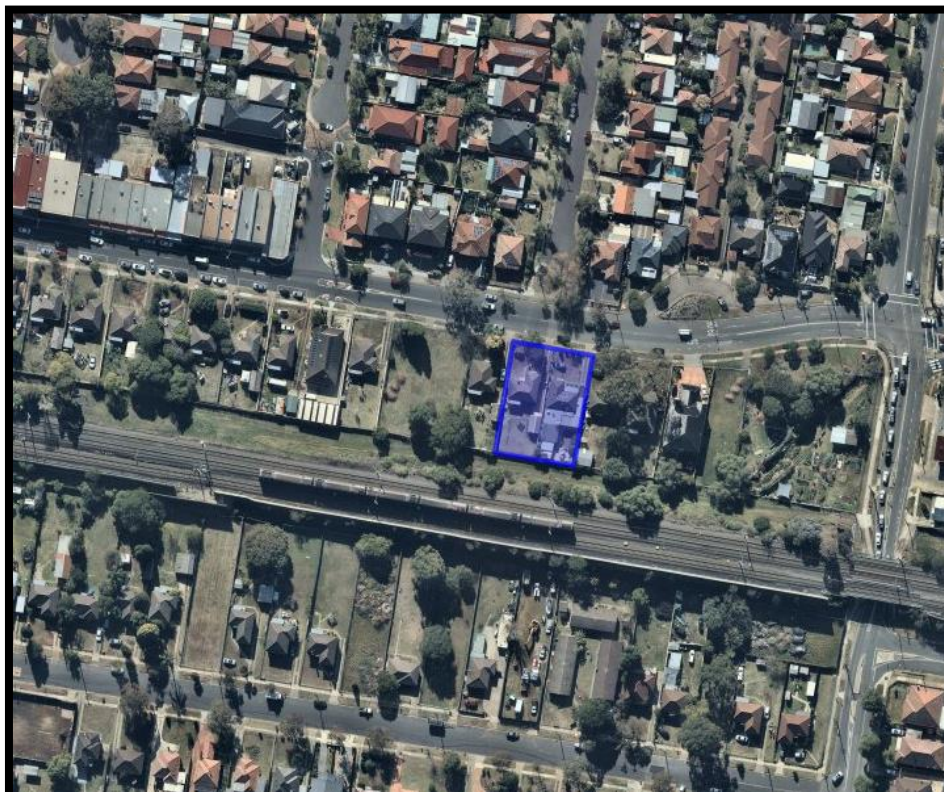
### **SITE & LOCALITY DESCRIPTION**

The site and locality details remain as originally presented to the Panel. These are repeated below for completeness.

The subject site is known as 77 and 79 Waldron Road Chester Hill and consists of two (2) allotments identified as Lot 62 and 63 in DP 23866. It is zoned R4 – High Density Residential and has an area of 1,268.9m<sup>2</sup>. This site has a frontage of 30.48 metres along Waldron Road to the north, is bounded by residential properties to the east & west, and the rear boundary adjoins the Southern Sydney Freight railway corridor.

The site falls approximately 980mm from the west to the east and existing development on the site includes two (2) residential cottages with ancillary structures such as a front fence, carports, shed and free-standing garage.

Surrounding development is primarily single storey residential cottages adjacent to the subject site and two storey dual occupancy development within the periphery. The site is located within the 'Residential Transitional Area' of Chester Hill Village Centre, approximately 92 metres to the Chester Hill 'Retail Core' and 500m walk west to Chester Hill Train Station. To the east 500 metres is Sefton Small Village Centre and Sefton Train Station is a 700 metre walk. The area was up-zoned on 22 January 2016 from R2 – Low Density Residential (to R4 –High Density Residential), a prescribed FSR of 0.5:1 (to 1:1) and total building height of 9m (to 13m).The context of the subject site is illustrated in the aerial photo below:



## **PROPOSED DEVELOPMENT**

DA-840/2017 (as amended) proposes the following works:

- Demolition of existing structures;
- Removal of existing street trees and on-site vegetation;
- Construction of a four (4) storey boarding house development comprising of:
  - Forty nine (49) boarding rooms;
  - Boarding house managers residence;
  - One (1) neighbourhood shop on ground level;
  - Communal room;
  - Car parking spaces in the basement level;
  - At grade car parking spaces to the rear of the site; and
  - Associated landscaping.

An extract of the proposed site plan is provided below to illustrate the ground level of the proposal:



## **SECTION 4.15 ASSESSMENT**

The amended proposal has been assessed pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

### **Environmental Planning Instruments [section 4.15(1)(a)(i)]**

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

According to *SEPP (State and Regional Development) 2011*, a regional panel may exercise the consent authority functions of the Council for the determination of applications for development of a class or description included Schedule 7 of this Policy (as mandated by Cl 4.5(b) of *Environmental Planning and Assessment Act 1979*).

Schedule 7 of *SEPP (State and Regional Development) 2011*, includes 'private infrastructure and community facilities over \$5 million'. The proposed development falls within this category (under Clause 5(b)) as it is for the purpose of 'affordable housing' with a capital investment value in excess of \$5 million. Accordingly, the application has been reported to the Sydney South Planning Panel for determination.

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

The aim of this policy is to facilitate the effective delivery of infrastructure. The amended proposal includes the provision of a basement level that triggers Clause 86 of this Policy due to the depth of excavation exceeding 2 metres below natural ground level within a 25 metre buffer of the rail corridor. This provision requires concurrence from the rail authority (Sydney Trains). Concurrence was provided on 28 March 2019 with required conditions of consent included in Attachment 'B' (draft conditions).

#### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

Division 3 of SEPP (ARH) 2009 provides controls for boarding house developments. The amended proposal is compliant with all relevant provisions. The original application did not demonstrate sufficient onsite parking and therefore was inconsistent with this Policy. Subsequently, Council recommended refusal and the Panel elected to defer the matter to allow the applicant the opportunity to provide amendments to demonstrate compliance. The amended plans presented to the Panel with this report are supported by Council as the provision of parking is compliant with this Policy and Council's DCP. The below table provides a summary of the relevant controls in this Policy with regard to the changes proposed as part of the amended development.

<b>Control</b>	<b>Comment</b>	<b>Compliance</b>
<b>CI 29 – Standards that cannot be used to refuse consent</b>		
<b>Parking</b> At least 0.5 spaces / boarding room + not more than 1 space for each employee	The proposal includes forty-nine (49) boarding rooms. 49 / 0.5 = 25 car spaces are required.	Yes

	One (1) space has been provided for the boarding room manager. Twenty seven (27) spaces have been provided on site. This includes one (1) parking space for the neighbourhood shop as per Council's DCP.	
<b>CI 30 – Standards for boarding houses</b>		
<b>Motorcycle/Bicycle</b> 1 space each per every 5 boarding rooms.	Ten (10) spaces proposed for each mode of transport. The ten (10) motorcycle spaces are provided on the ground floor. Six (6) bicycle spaces are provided on the ground floor and four (4) within the basement.	Yes

### **State Environmental Planning Policy No. 55 - Remediation of Land**

The Panel can be satisfied the amended proposal remains consistent with this Policy as reported in Council's original assessment report.

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

This Policy aims to encourage sustainable residential development. Council remains of the view this Policy does not apply to boarding house development but the applicant has provided a BASIX certificate with their original submission for completeness. This certificate has been assessed and compliance is demonstrated.

### **Bankstown Local Environmental Plan 2015**

The amended development remains satisfactory with regard to the relevant provisions of *Bankstown Local Environmental Plan 2015*. The original assessment in regards to the below provisions has been amended with the inclusion of the basement.

#### **Clause 5.4 Miscellaneous permissible uses**

Clause 5.4(7) limits development for the purpose of a neighbourhood shop to a maximum retail floor area of 90m<sup>2</sup>. The amended proposal retains one (1) neighbourhood shop on the ground floor with a total retail floor area of 39m<sup>2</sup> therefore complying with this control.

#### **Clause 6.2 Earthworks**

According to clause 6.2, earthworks may be undertaken with consent, however only where certain criteria are met. The proposed development satisfies the relevant criteria, which include:



- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The amended proposal includes a basement level that extends three (3) metres below natural ground level. It is estimated 1.54 tonnes of material will be removed. Aside from the excavation for the basement, extensive excavation or filling is not proposed as the amended proposal retains some proposed parking at grade and the floor level of the ground level remains generally consistent with the topography of the site. It is considered the earthworks achieve the above matters. Council's engineer has reviewed the proposal and it is considered the proposal and associated earthworks will not disrupt or have a detrimental effect on the existing drainage pattern or soil stability.

### **Clause 6.3 Flood Planning**

In accordance with Clause 6.3(3), 'development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- a) *is compatible with the flood hazard of the land, and*
- b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- c) *incorporates appropriate measures to manage risk to life from flood, and*
- d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding'.*

The amended proposal includes one (1) level of basement parking. This amendment has been reviewed by Council's Development Engineer and is deemed to satisfy the above mentioned provisions.

### **Draft environmental planning instruments [section 4.15(1)(a)(ii)]**

There are no draft environmental planning instruments applicable to the proposed development.



**Development control plans [section 4.15(1)(a)(iii)]**

**Part A1 – Centres**

The subject site is located with the ‘Residential Transitional Area’ of the ‘Chester Hill Village Centre’. The amended proposal generally complies with the objectives of this area in regards to the desired future character and built form.

**Part B1 – Residential Development**

The amended proposal generally complies with the relevant controls contained within Part B1, Bankstown Development Control Plan 2015, with the exception of the side and rear setbacks. This non-compliance has been previously reported to the Panel. The following table provides a summary of the development application against the non-compliant development controls and the controls impacted by the amended design. These controls are contained in Section 10 – Boarding Houses and Section 16 – Neighbourhood Shops of *Part B1 - Bankstown Development Control Plan 2015*.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
<b>Boarding House</b>		
<b>Side &amp; rear setback</b> Minimum setback is 4.5 metres provided the average setback is 0.6 multiplied by wall height.	Rear : Average setback required is 7.57m and the average setback provided is 3.4m. This is a shortfall of 4.17 metres.  Western & Eastern setback: Average setback required is 7.21m and an average setback of 4.75 metres is provided. This is a shortfall of 2.46 metres.	No. <i>See below comment.</i>
<b>Basement setback</b> Minimum setback for a basement level to the side and rear boundaries of the allotment is 2 metres.	The proposal fails this control with a 1.2m setback to the eastern boundary.	Yes – Subject to conditions. Council is of the view the proposal can be amended to comply via a condition of consent.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
		Two (2) bicycle spaces can be relocated and a minor extension of 1.26m to the western end of the basement made to accommodate this. This would ensure the basement is setback 2m from the side boundaries.
<b>Boarding house</b> One motorcycle and one bicycle space per 5 boarding rooms.	Required: $49/5 = 9.8 = 10$ spaces. Provided: Ten (10) spaces have been provided for each mode of transport. The motorcycle parking is contained on the ground floor (at-grade) parking area. The bicycle parking is provided on the ground level (6 spaces) and within the basement (4 spaces).	Yes
<b>Building Design (Car Parking)</b> The design should ensure forward entry and exit of vehicles and located behind the front building line.	The proposal provides sufficient space to facilitate a forward entry and exit to the at grade carpark located to the rear of the site.  The basement has also been designed to allow satisfactory on-site manoeuvrability.	Yes.
<b>Landscaping</b> 45% of the primary frontage to be landscaped and a provision of a 75 litre tree within this space.	<i>SEPP (ARH) 2009</i> overrides these control & only requires the front landscaping to be compatible with the streetscape.	SEPP overrides. Complies with SEPP.

CONTROL	BDCP 2015 PART B1	
	COMMENT	COMPLIES?
	The current streetscape is characterised by large setbacks and front fences. While the proposal is compatible with the existing streetscape, it is considered the proposal represents the desired future character of the locality (i.e. reduced setbacks and landscaped front entries).	

Variation to side and rear setback:

The amended proposal presented before the Panel fails to comply with Clause 10.15, Part B1 – Residential Development, *Bankstown Development Control Plan 2015*, in regards to the minimum setback to the side and rear boundaries. This control allows for the setbacks to be a minimum setback of 4.5 metres subject to the average setback being 0.6 multiplied by the wall height. The setbacks are unchanged from the original proposal presented to the Panel.

The proposal fails this control in regards to the rear setback as an average setback of 7.57 metres is required (12.61 metre wall height x 0.6) and a proposed average rear setback of 3.4 metres. This a shortfall of 4.17 metres.

The western and eastern setbacks also fail this provision with a required average setback of 7.21 metres (12.02 metres wall height x 0.6). The proposal is setback an average of 4.75 metres and this is a shortfall of 2.46 metres.

An assessment of the merits of this non-compliance has been carefully considered and Council is of the view that there are grounds to support the variation as the proposed actual setbacks are compliant with the Apartment Design Guide requirements. This would be the guide informing the intended future built form and compliance with this would enable a consistent approach to the future building envelopes on Waldron Road, minimise any overshadowing impact this development would have on adjoining allotments and ensure adjoining sites are not sterilised or required to provide a disproportional distance of the required setback when developing in the future.

The Apartment Design Guide requires a 6 metre setback to habitable rooms and balconies from the side boundary and a 3 metre setback to non-habitable rooms from the side boundary for development up to 12 metres (4 storeys). The subject and adjoining sites are prescribed a 13 metre height limit in accordance with BLEP 2015 which limits future development to a maximum 4 storeys. The boarding rooms are classified as habitable rooms in this instance as the ADG defines a habitable room as 'a room used for normal domestic activities, and includes a bedroom, living room, lounge room...'.

The application before the Panel proposes varying setbacks of 4.5 metres and 6 metres along the developments eastern and western elevations. The component of the building wall setback 4.5 metres is to the northern and southern ends of these elevations and have 1.6 metre high sill windows. While a strict application of the ADG in this case would require a 6 metre setback, the intent of this objective is to '*increase privacy without compromising access to light.*' As such the high sill windows are considered to achieve the objective of the separation distance required. The remaining portion of the side setback is 6 metres and thus complies with the ADG.

## **Part B5 – Parking**

The amended proposal has been reviewed in accordance with Part B5 of the DCP. Section 2 sets out the minimum car parking rates for a range of land uses, and includes a nominated rate of 1 space per 40m<sup>2</sup> of floor area for '*shops*'. The amended proposal includes a neighbourhood shop with a total area of 39m<sup>2</sup>. According to this rate, a total of one (1) car parking space is required for this component of the development. The proposed development makes provision for this space.

Council considers the acceptable and most current parking rate for the boarding house component of the development to be 0.5 parking spaces for each boarding room. This is as informed by Clause 29(2)(e)(iia) of *SEPP (Affordable Rental Housing) 2009*. This rate was introduced by the State Government and it can be assumed this was a reflection of the current demand for boarding house developments. The State Government's intention to introduce this rate is further supported by the absence of additional savings provisions for the amendment. Council is supporting this position with draft changes to the boarding house parking rates contained within the Bankstown Development Control Plan 2015. The proposed change to requiring '*0.5 car spaces per boarding room and 1 car space for each person employed in connection with the development and who is resident on site*' was adopted by Council on 28 May 2019.

The Panel supported Council's position on 14 August 2018 and deferred the determination of the matter until compliance is demonstrated with the SEPP (ARH) 2009 car parking standard.

The amended plans presented to the Panel are compliant with the revised requirement of 0.5 car spaces per one boarding room. The proposal requires twenty-five (25) spaces for the boarding house component of the development. As noted above, the DCP also required one space for the shop. A total of twenty-six (26) spaces are required. The applicant has provided twenty seven (27) spaces on site with thirteen (13) spaces located at grade at the rear of the site and the remaining spaces within a basement level entered adjacent the at-grade parking. The applicant has provided one additional space for the boarding room manager. While there is no requirement to provide this parking space, SEPP (ARH) 2009 enforces no more than the one (1) space can be provided for this purpose. The amended proposal is compliant in regards to parking.

## **Part B11 – Tree Preservation Order**

The vegetation sought to be removed on-site is not subject to this order. As such, consent is not required for its removal.

### **Planning agreements [section 4.15(1)(a)(iia)]**

There are no planning agreements applicable to the proposed development.

### **The regulations [section 4.15(1)(a)(iv)]**

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000*.

### **The likely impacts of the development [section 4.15(1)(b)]**

The amended proposal would not have an unreasonable or unacceptable environmental, social, cultural or economic impact on the surrounding locality. Council is of the view the amended proposal provides sufficient off-street car parking to reasonably mitigate any potential traffic impacts the development may have.

### **Suitability of the site [section 4.15(1)(c)]**

The site is considered suitable for the development proposal as amended. The proposed uses are permitted with consent in the R4 High Density Residential Zone, the proposal has been amended to accommodate the required off-street parking on site and the applicant has demonstrated the suitability of the site for the development in doing so.

### **Submissions [section 4.15(1)(d)]**

The amended proposal was re-notified for a period of fourteen (14) days. One (1) submission was received. The following concerns were raised:

- **Setback of the basement from the side boundaries.** Clause 10.16, Part B1, Bankstown Development Control Plan 2015 requires a 2 metre setback to any side or rear boundary. The submitted development plans demonstrate a non-compliance with this provision as a 1.2 metre setback is proposed to the eastern boundary. Council considers a condition of consent requiring a 2 metre setback to be appropriate. This would require a small extension to the western section of the basement to accommodate two bicycle spaces.
- **Basement works on boundary to be reinforced concrete contiguous piling.** The proposal works are not located on the boundary. A 2 metre setback will be achieved.
- **Location of the Fire Hydrant assembly.** The objector has raised concern with the location of the fire hydrant assembly. Council recommends a condition be imposed requiring the hydrant to be located a minimum 6 metres from the Waldron Road frontage. This is to ensure a satisfactory visual impact on the streetscape and ensure adequate sightlines are achieved for motorist entering and exiting the site.

**The public interest [section 4.15(1)(e)]**

It is considered that the proposed development (as amended) does not contravene the interest of the public or any parties or bodies representing the public.

**CONCLUSION**

DA-840/2017 (as amended) has been assessed according to the relevant provisions of *State Environmental Planning Policy (Infrastructure) 2007*, *State Environmental Planning Policy No. 55 (Remediation of Land)*, *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, *Bankstown Local Environmental Plan 2015*, and *Bankstown Development Control Plan 2015*.

Council is of the view that the applicant has satisfied the Panel's concerns as contained in the reasons for deferral. Council supports the application and recommends approval subject to the attached conditions of consent (contained in Attachment 'B').