

## Report to Sydney West Central Planning Panel

<b>Panel reference</b>	2017SWC018
<b>DA number</b>	JRPP-16-03323
<b>Proposed development</b>	Demolition works and construction of a part 6 storey and part 7 storey residential flat building
<b>Street address</b>	2-10 George Street, Seven Hills
<b>Applicant/owners</b>	Urban Link Pty Ltd on behalf of Civic Properties Group P/L (applicant) SH3 Housing P/L, W Smith, T Kirkman & M Chu (owners)
<b>Date of DA lodgement</b>	18 July 2016
<b>Number of submissions</b>	2
<b>Regional development criteria (Schedule 4A of the EP&amp;A Act)</b>	Capital investment value (CIV) over \$20 million (DA has a CIV of \$21,625,742 + GST)
<b>All relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>• Apartment Design Guide (ADG)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Draft West Central District Plan</li> <li>• Blacktown Local Environmental Plan (BLEP) 2015</li> <li>• Blacktown Development Control Plan (BDGP) 2015</li> </ul>
<b>Report prepared by</b>	Rebecca Gordon, Senior Town Planner
<b>Report date</b>	5 July 2017
<b>Recommendation</b>	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?

See attachment  
6

### 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)?

No

### Conditions

Have draft conditions been provided to the applicant for comment?

Yes  
Conditions  
agreed to

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## ATTACHMENTS

Attachment 1	–	Location map
Attachment 2	–	Aerial image
Attachment 3	–	Zoning extract
Attachment 4	–	Detailed information about the proposal and DA submission material
Attachment 5	–	Development application plans
Attachment 6	–	Assessment against planning controls
Attachment 7	–	Applicant's Clause 4.6 variation request
Attachment 8	–	Council officer's assessment of the Clause 4.6 request
Attachment 9	–	Summary of objections and Council's officer's response
Attachment 10	–	Draft conditions of consent

## 1 Executive summary

- 1.1 This report considers a proposal for a part 6 storey and part 7 storey residential flat building development containing 97 units at 2-10 George Street, Seven Hills.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any concerns that cannot be dealt with by conditions of consent.
- 1.3 Two submissions were received in objection to the development. One objector adjoins the development site. The main grounds for concern relate to noise, dust, asbestos, building separation and potential site isolation. It is considered that the issues raised do not warrant refusal of the application. Suitable conditions have been recommended to address many of the concerns raised.
- 1.4 The application is assessed as satisfactory when evaluated against Section 79C of the Environmental Planning and Assessment Act 1979.
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions at **Attachment 10**.

## 2 Key issues list

- 2.1 A summary of the key issues that need to be considered by the Panel in respect of this application are:



- a. **Height:**  
Portions of the part 6 storey and part 7 storey building exceed the 20 m height limit by 3.17 m. The applicant has lodged a request under Clause 4.6 for a variation to the height standard. The departure is due to the 3 lift overruns and fire stairs, and portions of the roof parapet only. No habitable floor space encroaches above the height limit. The variation is considered minor and should be supported.
- b. **Parking:**  
Based on Council's parking rates, the proposed development requires 146 off-street car parking spaces. The development proposes 127 car parking spaces and exceeds the RMS rate by 17 spaces. The proposed parking arrangements are therefore satisfactory.
- c. **Open space:**  
The amount of common open space provided is equivalent to 83% of our Development Control Plan (DCP) requirement. It is also twice the amount of open space required by the Apartment Design Guide (ADG). The non-compliance with the DCP is therefore considered acceptable and should be supported.
- d. **Building separation:**  
The development proposes some minor point encroachments into the side and rear setbacks which are considered satisfactory. At the 5<sup>th</sup> storey, a large wrap around balcony located on the front corner of the building provides a 6 m side setback instead of the required 9 m setback. Subject to suitable screen planting, the encroaching balcony is unlikely to impact on the privacy of the existing or any future neighbours.
- e. **Potential for any site isolation:**  
The adjoining property, at 12 George Street, contains a large 2 storey dwelling. Negotiations to acquire the adjoining property were not successful. The applicant has, however, satisfactorily demonstrated that the adjoining site will not be isolated as a result of this development, as redevelopment with the townhouse development at 14-18 George Street is an alternate and feasible option.

### 3 Location

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- 3.1 The site is located within the Seven Hills Town Centre. It is identified as a town centre that will support the growth of the main commercial centre, which is the Blacktown CBD. The location of the site is shown in **Attachment 1**.
- 3.2 The site is well serviced by public transport. Seven Hills railway station is located approximately 400 m walking distance from the site. A bus interchange facility is provided in Boomerang Place. Additional bus stops are located within easy walking distance of the site.
- 3.3 The Seven Hills shopping plaza, which contains Woolworths, Coles, Aldi and smaller speciality stores, is located approximately 300 m from the site. Smaller local shops are also located around the Seven Hills train station and in Best Road.

### 4 Site description

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- 4.1 The subject site is known as Lots 1 & 2, SP 49703, Lots 1 & 2, SP 52640, Lot 1, DP 845934, and Lots 48-50, DP 14294, 2-10 George Street, Seven Hills.
- 4.2 The site is located on the north-western side of George Street, between Olive Street and Best Road, and is slightly irregular in shape. Each lot currently contains a detached single or 2 storey dwelling, associated outbuildings and vegetation.



- 4.3 The development site has a frontage of approximately 77.8 m to George Street and a total site area of 4,126 sqm. The site falls from the George Street frontage to the rear north-western corner by approximately 1.8 m.
- 4.4 Low density residential development, including some townhouses, currently adjoins the development site. These properties are zoned R4 High Density Residential and are likely to be redeveloped in the future. The properties immediately adjoining the south-western boundary have already been approved for the construction of a 6 storey residential flat building containing 138 units (i.e. JRPP-15-1865 approved 22/12/16). In Best Road, development has commenced on a part 6 storey and part 7 storey mixed use development comprising 68 residential units and 3 commercial tenancies, and a 6 storey development comprising 25 residential units and 2 commercial tenancies. On the opposite side of George Street, Council is currently assessing 3 separate applications which are also for residential flat development.
- 4.5 Further to the south and south-west, on the opposite side of Olive Street, the detached dwellings are zoned R2 Low Density Residential. Further to the north, along Best Road, the properties are zoned B2 Local Centre. An aerial image of the site and surrounding area is at **Attachment 2**.

## 5 Background

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- 5.1 The site and immediate surrounding streets were rezoned under Blacktown Local Environmental Plan 2015 to R4 High Density Residential. The nearby commercial centre was rezoned to B2 Local Centre. The zoning plan for the site and surrounds is at **Attachment 3**.
- 5.2 The controls contained within Blacktown Development Control Plan (BDCP) 2015 have been carried across from BDCP 2006 and were originally adopted at a time when residential flat development was limited to 4 storeys in height. It has been recognised during the assessment of other applications that these controls are now outdated and it has been resolved by Council that both BDCP 2015 and the Blacktown Growth Centres DCP 2010 be amended so that the residential flat building controls in these documents align with the 2015 Apartment Design Guide (ADG).

## 6 The proposal

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- 6.1 The development application (DA) seeks approval for the consolidation of 8 existing lots, demolition of the existing dwellings and structures, and construction of a part 6 storey and part 7 storey residential flat building. The development includes 97 units and 2 levels of basement parking for 127 cars. All vehicular access is proposed from George Street.
- 6.2 A detailed description of the proposal is included at **Attachment 4**, while a copy of the development plans is included at **Attachment 5**.

## 7 Assessment against planning controls

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- 7.1 A full assessment of the DA against relevant planning controls is provided in **Attachment 6**, specifically:
- Environmental Planning and Assessment Act 1979
  - State Environmental Planning Policy (State and Regional Development) 2011
  - State Environmental Planning Policy (Infrastructure) 2007
  - State Environmental Planning Policy No. 55 – Remediation of Land

- e. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- f. Apartment Design Guide (ADG)
- g. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- h. Draft West Central District Plan
- i. Blacktown Local Environmental Plan (BLEP) 2015
- j. Blacktown Development Control Plan (BDGP) 2015

## 8 Key planning issues assessment

### 8.1 Non-compliance with the maximum height standard under BLEP 2015

- a. The maximum height of the proposed building, measured to the top of the lift overruns, is 23.17 m. This represents a 3.17 m departure (15.85%) from the 20 m maximum height limit under Blacktown Local Environmental Plan 2015. The departure is attributed to the 3 lift overruns and fire stairs, and small portions of the roof parapet. No habitable floor space encroaches above the height limit.
- b. The applicant has submitted a request under Clause 4.6 of BLEP 2015 to vary the 20 m height standard. The applicant's request is at **Attachment 7** and our assessment of the request is at **Attachment 8**. Based on our assessment, the requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.
- c. In terms of height:
  - i. The portion of the building fronting George Street (south-east elevation) complies with the 20 m height limit with the exception of the 3 lift overruns and fire stairs, and a very minor portion of the roof parapet.
  - ii. The south-west elevation (adjacent to an approved residential flat building fronting Olive Street) is predominantly under the 20 m height limit with the exception of a portion of the lift overrun and fire stairs.
  - iii. The rear elevation (north-west elevation) complies with the 20 m height limit with the exception of the 3 lift overruns and fire stairs, and a portion of the roof parapet.
  - iv. The north-east elevation (adjacent to the detached dwelling at No. 12) complies with the 20 m height limit with the exception of the lift overruns and fire stairs, and a portion of the roof parapet.
- d. The building provides a 7 storey element in response to the topography of the land. However, when viewed from George Street, the building has an overall height of 6 storeys. The 3 lift overruns and fire stairs, being the main elements to exceed the maximum height limit, are located entirely within the 6 storey portion of the building.
- e. The 3 lift overruns and fire stairs are located in the centre of the site and will have a negligible shadow and amenity impact on surrounding properties. Council officers have consistently supported a variation to the maximum height limit to accommodate rooftop facilities, and these minor encroachments are considered acceptable and should be supported.
- f. Building height (or height of building), as defined by BLEP 2015, means:
 

*“(a) in relation to the height of a building in metres - the vertical distance from ground level (**existing**) to the highest point of the building, or*



*(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like”. (emphasis added)*

- g. The building height is measured from the existing ground level, not the finished ground level. With a small amount of cut, the applicant has been able to accommodate the 3 lower ground units (see north-west elevation). This approach is consistent with Figure 2C.4 from the Apartment Design Guide (ADG) as shown below.
- h. It is considered that the 7 storey element (being 3 units at the lower ground level) should be supported, as it is located at the rear of the site and is below the 20 m height limit, with the exception of the roof parapet. The 3 lower ground units also have direct access to a level outdoor courtyard area, have a north orientation and will be provided with a high level of amenity.

## 8.2 Non-compliance with the minimum parking requirement under BDCP 2015

- a. Based on Council's parking rates, the proposed development requires 146 off-street car parking spaces, (see car parking calculations at **Attachment 4**). Clause 30 of SEPP 65 states, however, that car parking only needs to comply with the minimum parking requirements specified in the RMS 'Guide to Traffic Generating Developments' which is significantly less than Council's DCP requirement. SEPP 65 states that if the number of car spaces complies with the RMS rate, then the development cannot be refused on the grounds of parking.
- b. Based on the RMS parking rates, the proposal only requires 110 car parking spaces, including 90 resident spaces and 20 visitor spaces. The development proposes 104 resident spaces and 23 visitor spaces across 2 basement levels, and therefore provides a surplus of 17 spaces. As the proposed parking arrangements meet the RMS requirements, parking provision is deemed to be acceptable.

## 8.3 Non-compliance with the common open space requirement under BDCP 2015

- a. The DCP requires that on-site common open space be provided at the minimum rate of 30 sqm for each 1 bedroom unit, 40 sqm for each 2 bedroom unit and 55 sqm for each 3 bedroom unit.
- b. Based on these rates, the proposed development requires a minimum of 3,930 sqm of common open space. The DCP requires that a minimum of 1,572 sqm of the common open space be provided at ground level, and places maximum limits on the amount of rooftop and balcony space that can be included within the calculation.
- c. The proposed development has been calculated as providing a total of 3,276 sqm of open space. This is equivalent to 83% of our DCP requirement. The open space calculation includes 1,000 sqm at the ground level, 1,097 sqm on the roof and the balance being provided on balconies.
- d. While the amount of common open space does not comply with Council's DCP requirement, it does exceed the Apartment Design Guide (ADG) requirement that the common open space area be equivalent to 25% of the site area (i.e. 1,032 sqm). This is significantly different to the DCP requirement. The proposed development provides 2,097 sqm of common open space at ground level and on the roof, and therefore provides double the amount of space required by the ADG. The non-compliance with the DCP is therefore considered acceptable.
- e. The minimum open space requirements contained within our DCP were also adopted at a time when the maximum permitted height of a residential flat building was only 4 storeys. Council has therefore resolved to amend Blacktown



Development Control Plan 2015 (BDCP 2015) and the Blacktown Growth Centres Development Control Plan 2010 so that the residential flat building controls in these documents align with the 2015 Apartment Design Guide (ADG). In the meantime, we are using 75% compliance as a reasonableness test for the provision of common open space when calculated under BDCP 2015. This proposal exceeds this threshold at 83% and is therefore considered reasonable.

#### 8.4 Variations to the building separation requirements under the ADG

- a. Under the ADG the building separation controls increase as the height of the development increases as follows:
  - i. *Up to 4 storeys/12 metres*
    - 12 metres between habitable rooms/balconies
    - 9m between habitable rooms/balconies and non-habitable rooms
    - 6m between non-habitable rooms
  - ii. *5 to 8 storeys/up to 25 metres*
    - 18 metres between habitable rooms/balconies
    - 13m between habitable rooms/balconies and non-habitable rooms
    - 9m between non-habitable rooms
- b. The minimum building setback to a side or rear boundary is half of the above building separation requirements. For habitable rooms and balconies, the minimum side and rear setback requirements for this development are therefore 6 m for the first 4 storeys and 9 m for the upper storeys.
- c. The 7 storey portion of the building satisfies the minimum building setback requirements with the exception of the following encroachments:
  - i. At the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> storeys (i.e. upper ground level, level 1 and level 2 plans) the development proposes very minor point encroachments into the 6 m rear setback area. The point encroachments are to a blank wall and a very small portion of the balcony. The point encroachments are less than a metre and are considered negligible.
  - ii. No encroachments are proposed to the minimum 9 m setback requirements at the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> storeys.
- d. The 6 storey portion of the building satisfies the minimum building setback requirements with the exception of the following encroachments:
  - i. At the 2<sup>nd</sup> and 3<sup>rd</sup> storeys (i.e. level 1 and 2 plans), the units located on the eastern corner of the building contains a balcony that wraps around the front and side elevations. A small portion of these 2 balconies encroaches into the 6 m side setback area by up to approximately 1 m. The balconies have frontage to the street, do not overlook the neighbour's private open space area and add a curved architectural element to the front of the building. The encroachments are considered minor and should be supported.
  - ii. At the 5<sup>th</sup> storey (i.e. level 4 plan), the unit located on the eastern corner of the building contains a large wrap around balcony. Instead of providing the required 9 m side setback, the balcony is setback 6 m as per Council's DCP. The balcony is provided with a solid balustrade and a planter box. Subject to suitable screen planting being provided within the planter box, the encroaching balcony is unlikely to impact on the privacy of the existing or any future

neighbours. The requirement for suitable screen planting will be addressed as a condition of consent. The curved balcony and associated planting provide a significant design feature and add interest to the overall appearance of the front of the building. The well-designed corner element is a key feature of the building, and is considered reasonable in the circumstances and should be supported.

- iii. At the 5<sup>th</sup> and 6<sup>th</sup> storeys (i.e. level 4 and 5 plans), portions of the north-west elevation project into the 9 m side setback area. The encroaching elements, however, include non-habitable rooms and blank walls which only require a 6.5 m setback (i.e. half of 13 m). The projecting elements comply with this requirement. A single balcony at the 5<sup>th</sup> and 6<sup>th</sup> levels also encroaches into the 9 m side setback. The encroachment is to a small portion of the balcony only, and can be provided with metal louvre screens to address any privacy concerns. The requirement for privacy screens on these 2 balconies will be addressed as a condition of consent.
- iv. The development plans at **Attachment 5** highlight the location of these minor balcony encroachments.

## 8.5 Potential for any site isolation

- a. The adjoining property, at 12 George Street, contains a large 2 storey dwelling. On the other side of the dwelling, a 2 storey development containing 10 strata-titled townhouses, is located on the corner of George Street and Clancy Lane.
- b. We initially raised concerns that the proposed development may limit the development potential of the adjoining property. In the interest of avoiding potential site isolation, the applicant was requested to demonstrate that the principles of lot isolation established by the Land and Environment Court had been considered. This included:
  - i. Whether negotiations between the owners of the properties had been undertaken
  - ii. Whether amalgamation of the sites was feasible
  - iii. Whether orderly and economic use and development of the separate sites can be achieved if amalgamation is not feasible.
- c. The applicant arranged for a valuation report to be prepared in September 2015. An offer was then made to the owners of No. 12 to purchase their property and incorporate it within the development site. After several months of negotiations, a final offer was made in April 2016.
- d. The applicant has provided sufficient evidence to demonstrate that all reasonable attempts were made to acquire the adjoining property. A review of the written correspondence made between February 2015 and May 2016 demonstrates that the offers made to the owners of No. 12 were well above market value and that the final offer was higher than any other nearby sale. The owner of No. 12, however, was not prepared to settle for anything less than 2.5 to 3 times the market valuation. As such, an agreement could not be reached.
- e. While 12 George Street has been considered as an 'isolated property', in reality it is not isolated as it is not a corner lot and can be amalgamated with the townhouse development at 14-18 George Street. Although 14-18 currently contains 10 townhouses approved in September 2011, the site is zoned R4 High Density Residential with a 20 m height limit, and currently is not being utilised to its highest potential.



- f. The applicant has demonstrated that the amalgamation of No. 12 with No. 14-18 is an alternate and feasible amalgamation option. The amalgamation of No. 12-18 would result in an approximate site area of 3,440 sqm. This is comparable to a current DA at No. 11-17 George Street for 85 units. If No. 12-18 was developed in a similar manner, this would result in a considerably higher density than its current density of 11 dwellings. Redevelopment of No. 12-18 is therefore considered a viable option and an effective alternative amalgamation outcome. Based on this, No. 12 is not considered an isolated lot.
- g. The applicant has advised that on 30 November 2016 new Strata Scheme laws were introduced to allow the collective sale of a strata titled development if a minimum of 75% of the owners agreed to the sale. Under previous laws, consent was required from all strata owners. These new laws make the sale and redevelopment of strata titled developments, such as at No. 14-18, more likely given that not all owners need to agree to the sale of the site.
- h. The applicant has demonstrated that negotiations to acquire the adjoining property had been attempted and had not been successful. Evidence of emails, phone calls and a valuation report have been submitted by the applicant and are held on file. The applicant has also satisfactorily demonstrated that the adjoining site will not be isolated as a result of this development, as the site is capable of being developed with 14-18 George Street. On the merits of the application, the proposal is therefore considered satisfactory.

## 9 Issues raised by the public

- 9.1 Following the submission of amended plans, the proposed development was notified to property owners and occupiers within the locality between 18 April and 2 May 2017. The DA was also advertised in the local newspapers and signs were erected on the site.
- 9.2 The notification process resulted in 2 submissions being received. The main grounds for concern relate to noise, dust, asbestos, building separation and potential site isolation. These objections are not considered sufficient to warrant refusal of the application. Suitable conditions will be imposed on any consent to address potential noise and dust concerns during construction, and to ensure that all demolition works are undertaken in a safe manner. Further conditions will be imposed to limit the use of the rooftop open space area, ensure appropriate acoustic treatments are applied to all plant and equipment, and ensure appropriate CCTV and lighting is provided. Appropriate landscaping and building materials and finishes will also be required to ensure that a high quality development is provided.
- 9.3 The objections are considered to not warrant refusal of the DA. A summary of the objections raised and our response to the issues is at **Attachment 9**.

## 10 External referrals

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

Section	Comments
<b>Roads &amp; Maritime Services (RMS)</b>	The RMS has reviewed the application and found it acceptable.
<b>NSW Police</b>	The applicant's completed Crime Prevention Through Environmental Design (CPTED) checklist was forwarded to the Blacktown Local Area Command (LAC) for review. The LAC found it acceptable subject to standard conditions being imposed to ensure compliance with identified CPTED items.

## 11 Internal referrals

11.1 The DA was referred to the internal sections of Council as summarised below:

Section	Comments
<b>Engineering &amp; Building</b>	Acceptable subject to appropriate conditions.
<b>City Architect</b>	<p>Advised that the facade treatment is well composed. The following comments were raised for consideration:</p> <ul style="list-style-type: none"> <li>• Deep soil zones should be provided to the common open space</li> <li>• Direct access should be provided from the street to the lift lobbies</li> <li>• Basement roof slabs should be below finished ground level to avoid exposing slab edges.</li> </ul> <p>These issues are addressed in <b>Attachment 4</b> and are considered acceptable.</p>
<b>Tree management</b>	Council's Tree Management Coordinator had no objection to the removal of 11 trees, including the removal of 1 tree from Council's road reserve. Suitable conditions were provided in relation to replacement street tree planting and the associated tree bonds.
<b>Traffic management services (TMS)</b>	TMS is satisfied that the surrounding road network is capable of accommodating the additional traffic generated by the proposal.
<b>Waste Services</b>	Council's Waste Services Section is satisfied that the proposal will provide suitable waste collection arrangements. Waste collection will be undertaken by a private contractor.

## 12 Conclusion

12.1 The proposed development has been assessed against all matters for consideration and is considered to be satisfactory. The likely impacts of the development have been satisfactorily addressed and the proposal is considered to be in the public interest. The site is suitable for the proposed development subject to conditions.

## 13 Recommendation

13.1 The development application be approved by the Sydney West Central Planning Panel subject to the conditions held at **Attachment 10**.

13.2 The submission under Clause 4.6 of BLEP 2015 for a variation to the 20 m height standard be supported.

13.3 The submitters be notified of the Planning Panel's decision.



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Judith Portelli  
Manager Development Assessment



Glennys James  
Director Design and Development