

# Assessment report to Sydney Central City Planning Panel

Panel reference: PPS-202017SWC038

## Development application

<b>DA number</b>	SPP-17-00004	<b>Date of lodgement</b>	17 February 2017
<b>Applicant</b>	Meditech Corp Pty Ltd		
<b>Owner</b>	Meditech Corporation Pty Ltd and Blacktown City Council		
<b>Proposed development</b>	Subdivision into 2 Torrens title lots, extension of Premier Lane and dedication of road widening, demolition of existing structures, construction of 2 x 4 storey shop top housing buildings comprising 69 residential units and 13 retail suites over 2 levels of basement car parking, plant and storage area and associated landscaping and drainage works		
<b>Street address</b>	47-67 Rooty Hill Road North, Rooty Hill		
<b>Notification period</b>	28 March to 13 April 2018	<b>Number of submissions</b>	1

## Assessment

<b>Panel criteria</b> Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> <li>Capital investment value (CIV) \$20 million plus (DA lodged has CIV of \$22,621,647 incl GST) lodged before 1 March 2018</li> </ul>
<b>Relevant section 4.15(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>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) and Apartment Design Guide</li> <li>Blacktown Local Environmental Plan 2015</li> <li>Blacktown Development Control Plan 2015</li> <li>Central City District Plan 2018</li> <li>Blacktown Local Strategy Planning Statement 2020</li> </ul>

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**Report date** 30 November 2020

**Recommendation** Approve subject to deferred commencement consent including conditions listed in attachment 10.

## Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans

- 6 Assessment against planning controls
- 7 Issues raised by the public
- 8 Applicant's Clause 4.6 variation submission
- 9 Council assessment of Clause 4.6 variation
- 10 Draft conditions of consent

## Checklist

### Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 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 (section 7.24) N/A

### Conditions

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

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## 1 Executive summary

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- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
  - the minor variation to the height of buildings development standard, which is considered satisfactory as the exceedance only relates to point encroachments
  - variations to communal open space, deep soil and landscaping, which are considered acceptable
  - visual privacy measures for internal apartments, which are considered satisfactory
  - the surplus of parking provided for Building A, which is to be retained due to the location and likely future retail tenants.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is therefore assessed as satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions listed at attachment 10 based on the grounds listed in the Recommendation at section 12 below.

## 2 Location

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- 2.1 The site is located within the existing Rooty Hill local centre, at the north-western end and on the western side of Rooty Hill Road North, which is the main street of this traditional 'strip' commercial centre, generally comprising 1 and 2 storey buildings.
- 2.2 The site is also intended to be accessed from the south by the existing Premier Lane, with Council plans showing it proposed to be extended through the site, to link through to Rooty Hill Road North.
- 2.3 The site is within close walking distance of public transport, local shops, business services and community facilities. It is 230 m from the Rooty Hill railway station, providing access to services on the Main Western Railway Line. Local roads provide good access to surrounding suburbs and to the major transport links of the M7 Motorway, Great Western Highway and M4 Motorway.
- 2.4 The site is located between the adjacent centre zoned B2 Local Centre, a low density housing area to the west zoned R2 Low Density Residential and the local Rooty Hill Public School to the north-west. Rooty Hill High School is also within walking distance to the west of the site.
- 2.5 The location of the site is shown at attachment 1.

## 3 Site description

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- 3.1 The land is legally described as Lot 1 DP875266, Lot A DP399706 and Lots 60A and 60B DP361039, also known as 47, 53, 59 and 67 Rooty Hill Road North, Rooty Hill.
- 3.2 The site is a regular shape with a total area of 6,387 m<sup>2</sup>. The eastern frontage to Rooty Hill Road North is approximately 90 m long, with a rear western boundary approximately 69 m, the northern boundary 80 m and the 2 southern boundaries approximately 40 m each.
- 3.3 The application also includes 2 Council-owned lots, identified as Lots 5 and 6 DP 875266. These 2 lots were included as part of the application in 2020 as they are required to provide an extension to Premier Lane up to the site and road access into the site once

constructed and dedicated as public road as part of this proposal. The applicant has entered into an agreement with Council for the access and to construct the road on these 2 lots. The lots will be required to be dedicated by Council as public road as a recommended condition of consent.

- 3.4 The topography of the site is relatively flat, characterised by a slight slope falling 1.6 m across the site from the north-east to the south-east corners along Rooty Hill Road North and 0.6 m from west to east.
- 3.5 At present the site contains 3 existing commercial buildings along the Rooty Hill Road North frontage, situated on 3 of the 4 existing lots. The most northern lot (No.67) is vacant, as is the rear 50% of numbers 53 and 59.
- 3.6 There are several existing trees on site that are proposed to be removed, except for 1 large tree at the mid northern boundary of the site that warrants retention.
- 3.7 An aerial image of the site and surrounding area is at attachment 2.

## 4 Background

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- 4.1 The site is zoned B2 Local Centre, with a 14 m maximum height of buildings development standard under Blacktown Local Environmental Plan (BLEP) 2015. The zoning plan for the site and surrounds is at attachment 3.
- 4.2 A water sensitive urban design and Integrated water cycle management Voluntary Planning Agreement was executed by Council on behalf on the applicant on 22 July 2020.
- 4.3 A Deed of Licence was entered into between Blacktown City Council and Meditech Corp Pty Ltd for Lots 5 and 6 DP 875266, being part of 47-67 Rooty Hill Road North, Rooty Hill, for the extension of Premier Lane and access to the site.
- 4.4 The DA was received on 17 February 2017. Elements of the proposal were redesigned several times in response to Council officers' concerns about a number of inadequacies in the original plans. The most recent architectural plans were lodged in November 2020 and are labelled Issue M, dated 11/11/2020. A number of additional consultant studies have also been required to address the requirements of environmental planning instruments. The application was amended in October 2020 with the inclusion of the 2 Council lots required for public road access to the site (as discussed above).

## 5 The proposal

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- 5.1 The Development Application was lodged by Meditech Corporation Pty Ltd on 17 February 2017.
- 5.2 The applicant proposes a shop top housing development comprising:
  - removal of all existing trees, except 1 on the site
  - Torrens title subdivision into 2 Torrens title lots, including 1 lot and road widening for Premier Lane to be constructed and dedicated free of cost to Council
  - demolition of all structures
  - construction of 2 x 4 storey shop top housing buildings comprising 69 residential units above 13 ground floor retail shops with 2 levels of basement car parking consisting of 201 car parking spaces
  - associated works, including civil engineering, stormwater, street tree planting and site landscaping.

- 5.3 Other details about the proposal are at attachment 4, including the applicant's Clause 4.6 request for a variation to the maximum building height. A copy of the development plans is at attachment 5.

## 6 Assessment against planning controls

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- 6.1 A full assessment of the Development Application against relevant planning controls is provided at attachment 6.

## 7 Key issues

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### 7.1 Variation to height of buildings development standard

- 7.1.1 Under the Height of Building Map referred to in Clause 4.3 of the Blacktown LEP, the maximum allowable building height for the subject site is 14 m.
- 7.1.2 The proposed development exceeds the height limit by:
- Parapet
    - Block A: 0.6 m to 1.6 m (4.2% to 11.4%)
    - Block B: 0.5 m to 1.2 m (3.5% to 8.5%)
  - Fire stairs
    - Block A (north end) 2.55 m (18.2%)
    - Block A (south end) 3.1m (22.1%)
    - Block B 2.6 m (18.5%)
  - Lift overrun elements
    - Block A (north end) 3.2 m (22.8%)
    - Block A (south end) 4.3 m (30.7%)
    - Block B 3.3 m (23.5%)
  - Roof shade structure
    - Block A: 2.6 m to 3.5 m (18.5% to 25.0%)
    - Block B: 1.6 m to 3.2 m (11.4% to 22.8%)
    - Blocks A and B approximately 200 mm to 400mm (1.4% to 2.8%) in part for the Level 4 building form being habitable space.
- 7.1.3 The applicant has submitted a Clause 4.6 variation request, included at attachment 8. The submission addresses the requirements of sub-clauses 4.6(3) and (4) and is considered satisfactory to allow the variation to the height of building development standard in this circumstance. Council's assessment of the Clause 4.6 variation request is at attachment 9.
- 7.1.4 It is considered that the deviation in the height standard to accommodate lifts and rooftop communal open space areas, and a portion of roofs, is consistent with achieving the objectives of the height of buildings development standard in Blacktown LEP 2015.
- 7.1.5 The overall building height is considered to be consistent with the desired future character and building forms anticipated within the local centre. There are no unacceptable perceived environmental impacts from the proposed height variation on the site or locality.

- 7.1.6 The departure from the height limit with respect to the proposed buildings has planning merit. The most significant points of encroachment above the height limit are the result of providing rooftop amenities for the rooftop communal open space areas and access thereto. Due to the nature of shop top housing located above retail space in a local centre, the rooftop provides the only accessible private communal open space area and facilities for the amenity of future residents.
- 7.1.7 The proposed development is consistent with Clause 4.6(3), as it is considered that compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of this case, and that there are sufficient environmental planning grounds to justify contravening the development standard.
- 7.1.8 It is concluded that Clause 4.6 (4ii) is satisfied as the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings development standard and the objectives for development within the B2 Local Centre zone, in which the development is proposed to be carried out.
- 7.1.9 It is therefore recommended that a modification to the height of buildings development standard be granted for this development proposal pursuant to Clause 4.6, so as to permit the proposed maximum building height of 18.4 m.

## 7.2 Variations to communal open space, deep soil and landscaping

- 7.2.1 Due to the location of the proposal in the local business centre and the style of housing located above retail shops, the residential communal open space area is required to be located on the rooftop to provide privacy for residents. A recommended condition stipulates that this rooftop communal open space is to be for the use of residents and their visitors only and not to be accessible to the general public nor the operators/staff of the retail shops. This rooftop communal open space provides shading, seating and some boundary landscaping in planter boxes. A recommended condition of consent requires the provision of a BBQ facility on the rooftop communal open space of both buildings for residents' use.
- 7.2.2 Ground level open space is limited. On Lot 1 Building A, public open space fronting the western edge of Premier Lane is provided in conjunction with retail activities, however due to the location of the on-site stormwater detention tank there can be limited planting in this area. A recommended condition requires a landscape buffer of dense shrubs to be provided around the outside of the fence of the on-site stormwater detention area on Lot 1.
- 7.2.3 Deep soil areas are less than required by the SEPP 65 Apartment Design Guide. No deep soil is proposed on the Building A site. However Building B, including areas with a minimum dimension of only 3 m (instead of 6 m), will provide a total of 5.8% deep soil for the combined sites. An additional 2 m wide strip along the western edge of the Building A site, adjacent to the Premier Lane footpath, will also enable plant growth of street trees. Despite being below the minimum requirement for deep soil, this is considered acceptable in the circumstances of this shop top housing style, located within a commercial centre, and the relatively large proportion of the privately-owned part of the site (approximately 27%) required to be dedicated for the new public road.
- 7.2.4 The applicant proposes to remove all trees from the site, except for a large native tree that Council has required to be retained in the proposed public footpath area of Premier Lane on the mid northern site boundary adjacent to the on-site stormwater detention area of Building B.
- 7.2.5 Tree planting on site is difficult due to the location of on-site stormwater detention areas at ground level and the commercial/residential mixed use design. Tree planting will occur in deep soil areas on the site of Building B along the western boundary with low density residential houses. Street trees are proposed along the

verge of Rooty Hill Road North and the proposed Premier Lane. Planter boxes will also be provided for shrubs on-site above basements and on the roof of the buildings.

- 7.2.6 The proposed landscaping is considered to be acceptable and will improve the streetscape of Rooty Hill Road North.

### 7.3 Visual privacy measures for internal apartments

- 7.3.1 In Building A there are 15 apartments that have reduced visual privacy across internal corners, where balconies and windows are less than 12 m apart.
- 7.3.2 These 5 apartments on each level have been amended to provide either blank walls or privacy screens to the areas of the balconies and those windows where there is potential for overlooking.
- 7.3.3 As all other separation distances are met by both buildings. This non-compliance with the Apartment Design Guide standard is considered to be acceptable in the context of the shop top housing development style as privacy screens have been provided to balconies and windows of those affected apartments.
- 7.3.4 These privacy screens and walls will also have to meet our Environmental Health acoustic measures to ensure no noise disturbance occurs between units. Conditions are included to address this.

### 7.4 Surplus of car parking provided for Building A and Building B

- 7.4.1 Block A is required to provide 60 car parking spaces (44 residential, 8 visitor and 8 retail) in line with the RMS Guide to Traffic Generating Developments. However, there is provision for 139 spaces (76 residential, 17 visitor and 46 retail), being a surplus of 79 spaces (32 residential, 9 visitor and 38 retail).
- 7.4.2 Block B is required to provide 35 car parking spaces (24 residential, 5 visitor and 6 retail) in line with the RMS Guide to Traffic Generating Developments. However, there is provision for 62 spaces (44 residential, 11 visitor and 7 retail), being a surplus of 27 spaces (20 residential, 6 visitor and 1 retail).
- 7.4.3 Rooty Hill Station is on the Western railway line with no direct connection to Schofields, Richmond or the new light rail line. Therefore, it is considered that the wider catchment of people coming into the area will be travelling by car.
- 7.4.4 A submission relating to lack of parking was received during the assessment of the application that requested that parking for the residents be accommodated on site as it is critical for the school as it is experiencing reduced parking outside the school.
- 7.4.5 The surplus of car parking is considered reasonable as the area is experiencing a lack of parking around the school which is in close proximity to the site within the local town centre.
- 7.4.6 Also, as the ground retail units have dual entrances within a forecourt area that provides an outdoor seating area for the future intended uses. Should a more intensive use such as a food and drink premises occupy one of the spaces, additional car parking will be required.

## 8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality between 28 March and 13 April 2018. It was also advertised in the local newspapers and a sign was erected on the site.

- 8.2 One submission was received from the Principal of the nearby Rooty Hill High School. The submission does not oppose the proposal, however raises issues of parking, pedestrian (school students) safety on the local road network and tree removal.
- 8.3 The issues raised by the submission are discussed at attachment 7 and are not considered to warrant refusal of the Development Application.

## 9 External referrals

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

Authority	Comments
Roads and Maritime Services	Acceptable subject to conditions
Police	Acceptable subject to conditions

## 10 Internal referrals

- 10.1 The Development Application was referred to the following internal sections of Council for comment:

Section	Comments
Building	Acceptable subject to conditions
Engineering	Acceptable subject to conditions
Waste	Acceptable subject to conditions
Traffic	Acceptable subject to conditions
Drainage	Acceptable subject to conditions
Landscaping	Acceptable subject to conditions
Property	Acceptable
Section 7.11	Acceptable subject to conditions
Environmental Health Unit	Acceptable subject to conditions

## 11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters 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

- 1 Uphold the applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of Blacktown Local Environmental Plan 2015, for the following reasons:

- a The proposal promotes the orderly and economic use and development of the site because it provides a built form that does not generate any adverse environmental impacts, nor does it result in any increase in residential apartments or density and is therefore considered acceptable in the circumstances. The 4-storey mixed use buildings proposed are an expected outcome of a 14 m height limit development standard.
  - b The proposal promotes the social welfare of the future community by increasing the residential amenity to the buildings with the proposed rooftop common open spaces on each building.
  - c The proposed development will provide urban renewal close to good public transport in the local strip shopping centre that is planned for increased development and change. The proposal increases vehicular and pedestrian connectivity in the local centre with the provision of a new planned laneway.
  - d The proposal does not generate any significant overshadowing or view impacts. The proposal achieves good solar access to units and to common open space for a minimum of 2 hours in mid-winter.
  - e It is considered that the applicant's written request at attachment 8 justifying the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3).
- 2 Approve Development Application SPP-17-00004 subject to a deferred commencement consent including conditions listed in attachment 9, for the reasons listed below:
- a The proposal results in an acceptable scale of development for the site and generally complies with the relevant provisions of the applicable planning controls.
  - b The request made under Clause 4.6 of Blacktown Local Environmental Plan 2015 to vary the maximum height of buildings development standard is well founded. Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify the variation to the development standard.
  - c The proposed development does not create unreasonable environmental impacts to existing or future potential adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy impacts.
- 3 Council officers notify the applicant and submitter of the Panel's decision.



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