

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-303

Development application

DA number	SPP-21-00011	Date of lodgement	11 November 2021
Applicant	Landmark Group Australia Pty Ltd		
Owner	Better Buildings Pty Ltd		
Proposed development	Amending development application to Stage 1 of an approved 18 storey mixed-use development approved under JRPP-16-03305 comprising 1 additional basement level (taking carparking from 359 spaces to 428); reconfiguration of floorplates, 3 additional storeys (from 18 to 21), increasing the number of apartments from 227 to 324, façade changes and an additional elevator (from 2 to 3)		
Street address	11-17 Second Avenue, Blacktown		
Notification period	24 November to 8 December 2021	Number of submissions	1

Assessment

Panel criteria Part 2.2, SEPP (Planning Systems) 2021	<ul style="list-style-type: none"> Capital investment value (CIV) over \$30 million. (DA has CIV of \$76,795,454.55)
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development Blacktown Local Environmental Plan 2015 Blacktown Development Control Plan 2015 Blacktown Local Strategic Planning Statement 2020 Central City District Plan 2018.
Report prepared by	Planning Ingenuity on behalf of Blacktown Council
Report date	17 November 2022
Recommendation	Approval, subject to conditions listed in attachment 8.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and submission material
- 5 Development application plans
- 6 Assessment against planning controls

- 7 Summary of residents' concerns and Council's response
- 8 Applicant's Clause 4.6 variation submission
- 9 Council's 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)? No

Conditions

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

Contents

1	Executive summary	4
2	Location	4
3	Site description	4
4	Background.....	5
5	The proposal.....	5
6	Assessment against planning controls	6
7	Issues raised by the public	6
8	Key issues	6
9	External referrals	10
10	Internal referrals.....	10
11	Conclusion	10
12	Recommendation.....	11

1 Executive summary

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- building height exceedances: There are minor point encroachments of up to 4.98 m (7.78%) for the architectural roof feature at the corner of the building, the lift overruns exceed the height limit by up to 3.75 m (5.85%), and part of the roof parapet, due to the cross fall of the site, exceeds the height limit by 0.5 m (0.78%). These variations are acceptable to enhance the architectural merit and improve residential amenity of the development.
 - building separation and visual privacy: The proposal seeks a variation to building separation and visual privacy under Apartment Design Guide. The proposed building also provides reduced separation distances to the east. However, given the treatment of the development to east, being the Stage 2 building, and the proposed privacy treatments at this elevation, the proposed separation is considered acceptable, particularly considering the approval of original development application.
 - apartment mix: The proposed development has a mix of 1 and 2-bedroom units only, which is a variation to the design guidance of 4K of Apartment Design Guide which requires a variety of apartment types including 3-bedroom apartments. The nearby "Fairwater" Estate contains predominantly 3 bedroom residencies.
 - permanent reception area for serviced apartments. The proposal does not provide a permanent dedicated reception area. Blacktown Development Control Plan 2015 is silent about this requirement. Given that a plan of management of the serviced apartments was submitted in support of the application including an off-site manager who will be contactable 24 hours a day, 7 days a week, this is considered acceptable, subject to conditions.
- 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 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the conditions listed in attachment 10.

2 Location

- 2.1 The site is located within the Blacktown Central Business District on the northern side of the railway line.
- 2.2 The land immediately to the north, south, west and east of the site is zoned B4 Mixed Use. The land to the north east and south has a building height limit of 80 m whilst the land to the north and west has a building height limit of 64 m
- 2.3 The site is located approximately 325 m north-east of Blacktown railway station on the western rail line.
- 2.4 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The site comprises 3 lots being Lots 96 to 98 in DP 11157 with the street address of 11-17 Second Avenue, Blacktown.
- 3.2 The site is rectangular in shape and has an area of 3,110.8 m². It has a frontage of approximately 56.695 m to Second Avenue and 53.645 m to Prince Street. The site falls

by approximately 2 m from the north-eastern corner to the south-western corner of the site.

- 3.3 The site is vacant with no built improvements. There is no vegetation on the site with the exception of a eucalypt tree at the north western corner which was approved for removal in the original development application.
- 3.4 The site adjacent to the east is 9 Second Avenue and contains a single storey office building.
- 3.5 The site adjacent to the north on the eastern end of the boundary is 10 Third Avenue. It contains a showroom used for tyres and wheels retailing. This site has an approval granted on 24 May 2018 under JRPP-16-03334 for demolition of the existing commercial building and construction of an 18 storey shop top housing development comprising of ground floor retail, first floor child care centre and 16 storeys of residential apartments with basement car parking for 230 vehicles
- 3.6 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 Development consent was granted on 26 July 2018 under JRPP-16-03305 for staged demolition of existing structures and staged construction of 2 mixed use buildings at 9-17 Second Avenue, Blacktown.
- 4.2 Stage 1 at 11-17 Second Avenue comprises the construction of an 18 storey mixed use building including ground floor retail, 1 level of serviced apartments and 16 levels of residential apartments consisting of 227 units, 4 basement car parking levels and associated stormwater drainage works and landscaping.
- 4.3 Stage 2 of the approval under JRPP-16-03305 at 9 Second Avenue comprises the construction of an 18 storey mixed use development including ground floor retail, commercial premises on the first and second floors and 15 levels of residential apartments consisting of 59 units as well as 5 basement car parking levels and associated stormwater drainage works and landscaping.
- 4.4 The design and layout of Stage 2 relies upon vehicle access and egress through the basement and vehicle crossing of this Stage 1. Stage 2 also relies on sharing of the loading bay to be constructed in Stage 1 for deliveries and waste servicing.
- 4.5 Since the original approval there have been some changes to the planning controls under Blacktown Local Environmental Plan 2015, including:
 - the removal of the floor space ratio control
 - an increase in the height control from 56m to 64m.
- 4.6 The subject site (No.11-17) was acquired by Landmark Group who have subsequently lodged this DA to change Stage 1.
- 4.7 The site is zoned B4 Mixed Use under Blacktown Local Environmental Plan 2015.
- 4.8 The zoning plan for the site and surrounds is at attachment 3.

5 The proposal

- 5.1 The development application was lodged by Landmark Group Australia Pty Ltd.
- 5.2 The applicant proposes alterations and additions to Stage 1 of an 18 storeys mixed-use development approved under JRPP-16-03305, including various changes to the floorplate, façade, internal layout, additional basement level and an additional 3 floors. Specifically, the proposed development involves the following alterations and additions:

- Reconfiguration of typical floorplate to increase internal separation between the building wings by extending the eastern and western wings to the north;
- Refinement to ground floor level including an increase in active frontage to Second Avenue and improvement to the configuration of the common open space area;
- Additional lift to the eastern lift core to provide three lifts;
- Additional basement level (increasing the number of parking spaces from 359 to 428);
- Additional 3 floors of residential apartments (increasing the number of apartments from 227 to 324);
- Refinement to the façades and architectural expression of the building; and
- Various changes to the layout and arrangement of apartments and serviced apartments.

5.3 A copy of the development plans is at attachment 4.

6 Assessment against planning controls

- 6.1 A full assessment of the development application against relevant planning controls is provided at attachment 6, including:
- Environmental Planning and Assessment Act 1979
 - State Environmental Planning Policy (Resilience and Hazards) 2021
 - State Environmental Planning Policy (Transport and Infrastructure) 2021
 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 - State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development
 - Blacktown Local Environmental Plan 2015
 - Blacktown Development Control Plan 2015
 - Blacktown Local Strategic Planning Statement 2020
 - Central City District Plan 2018

7 Issues raised by the public

- 7.1 The proposed development was notified to 450 property owners and occupiers in the locality between 24 November 2021 and 8 December 2021. The development application was also advertised in the local newspapers and a sign was erected on the site.
- 7.2 Council received 1 submission from the owner of Stage 2. The issues raised in the submission have been addressed in detail in Attachment 7 with a town planning comment provided to each issue.
- 7.3 However, none of the issues raised in the submission warrant refusal of the development application.

8 Key issues

8.1 The building height exceedance is considered acceptable

- 8.1.1 Clause 4.3 of the Blacktown Local Environmental Plan 2015 provides that the maximum height of development on the subject site should not exceed 64m.

- 8.1.2 The proposed development will exceed this maximum building height by up to 4.93m (7.7%).
- 8.1.3 There will be points of exceedance of the height control as follows:
- architectural roof feature exceeds height control by up to 4.93m (7.7%)
 - lift overruns exceed height control by up to 3.75m (5.85%)
 - minor portions of the roof form exceed the height control by up to 0.5m (0.78%).
- 8.1.4 The architectural roof feature, which is only located at the south eastern corner of the rooftop, provides an important element of articulation for the development. It contributes to the design detail of the building and adds an element of interest to the rooftop profile, as well as providing a wind-break for part of the rooftop open space.
- 8.1.5 The lift overrun will allow for all-weather accessibility to the rooftop communal open space for future residents of the development.
- 8.1.6 The elements of the roof parapet which extend about the height limit are an outcome of the fall across the site.
- 8.1.7 The height non-compliance does not contain any areas of habitable space or gross floor area.
- 8.1.8 The overall building height will be consistent with the desired future character and building form anticipated by the applicable planning controls of the Northern Precinct of the Blacktown CBD. There are not considered to be any unacceptable environmental impacts which result from the proposed height variation on this site.
- 8.1.9 The applicant submitted a Clause 4.6 variation request, which is at attachment 8 and the assessment of the request is at attachment 9. In summary, this request addresses the requirements of subclauses 4.6(3) and (4) to BLEP 2015 and it is considered satisfactory to allow the variation to the height of building development standard in this circumstance.
- 8.1.10 It is therefore recommended that a variation to the height of buildings development standard of 64m be granted for this development proposal, under Clause 4.6 to:
- provide an architectural roof feature that contributes to the design of the building, does not obstruct views and outlooks, does not have detrimental impacts to solar access and is a decorative element that will provide some wind attenuation for the rooftop open space
 - permit the proposed lift overruns that provide access to the rooftop open space
 - allow the maximum building height of 68.93m as highest point of encroachment for the architectural roof feature
 - allow the maximum building height of 67.75m as the highest point of encroachment for the lift overrun
 - allow the maximum building height of 64.5m as the highest point of encroachment for the roof parapet

8.2 The minor variations to the Apartment Design Guide's building separation requirements are considered acceptable

- 8.2.1 The Apartment Design Guide provides design criteria for minimum building separation distances shared between adjoining residential apartments. The required separation is dependent on the nature of the development at each

elevation, whether it is for habitable or non-habitable space and the height above ground requiring step changes at up to 4 storeys, 5 to 8 storeys and for 9 storeys and above.

- 8.2.2 The original application approved by the then JRPP permitted a variation of the controls relating to building separation. The current proposal is based on that decision.
- 8.2.3 Some parts of the proposed Stage 1 apartments are less than the minimum separation to the eastern boundary shared with Stage 2 from the 5th storey and above. In some parts, the Stage 1 building only provides a 6m separation from habitable spaces, where a separation of 9m is required for storeys 5 to 8, and 12m is required for storeys 9 and above.
- 8.2.4 Despite the non-compliances, the proposed building separations have been considered acceptable based on merit. Council's Senior Architect has reviewed several sets of amended plans provided by the applicant seeking to address separation through other design and performance solutions to protect visual privacy between apartments. All windows along the eastern elevation of Stage 1 are proposed to be fitted with angled hoods, orienting the windows to the north and south away from the Stage 2 building. Furthermore, the western elevation to the Stage 2 building does not contain any windows or balconies which allow for direct sight lines or overlooking between the two buildings, at any level.
- 8.2.5 There are some balconies at each level from Levels 3 to 20 in the eastern elevation of Stage 1, specifically the balconies of Units 3.14 to 20.14, that propose a 6m separation to the eastern boundary shared with Stage 2. The setback of the balconies to the eastern boundary is considered acceptable given the adjoining Stage 2 building does not contain any habitable spaces or balconies which face towards the Stage 1 building. The balconies of Units 3.14 to 20.14 in Stage 1 are not capable of direct sightlines or overlooking into Stage 2 apartments. As such, the subject balconies are considered to achieve a suitable level of privacy between the Stage 1 and Stage 2 developments.
- 8.2.6 The City Architect has reviewed the proposed building separations to the eastern elevation in detail and is satisfied as to the variation to the ADG separation requirements in the specific circumstances of this case.

8.3 The Apartment Mix is considered acceptable

- 8.3.1 The Stage 1 building approved with JRPP-16-03305 proposed 50 x 1 bedroom apartments (22%), 162 x 2 bedroom apartments (71%) and 15 x 3 bedroom apartments (7%).
- 8.3.2 The proposed Stage 1 building contains 58 x 1 bedroom apartments (18%) and 266 x 2 bedroom apartments (82%). There are no 3 bedroom apartments proposed.
- 8.3.3 Stage 2 contains 59 apartments of which 46 x 2 bedroom apartments (88%) and 13 x 3 bedroom apartments (22%).
- 8.3.4 Objective 4K-1 to the ADG encourages apartment mix to achieve housing choice, equitable access to housing, apartments suited to a range of household types and housing that meets the needs of the local area. Objective 4K-1 requires consideration of a housing mix that is suited to a local community depending on proximity to public transport, employment and education, projected demographics, the availability of social and affordable housing and the cultural and socio-economic needs of the community.

- 8.3.5 ABS Statistics published by Informed Decisions (profile.id.com.au) for the Small Area collection district of Blacktown CBD in comparison to the Blacktown LGA indicate single person and two person households are more highly represented in the CBD making up 21% and 27% of all households respectively. By comparison single and two person households in the broader LGA are 15.9% and 24.8% respectively.
- 8.3.6 ABS Statistics published by Informed Decisions (profile.id.com.au) for the Small Area collection district of Blacktown CBD in comparison to the Blacktown LGA indicate the average household size in Blacktown CBD is 2.86 persons and decreasing. The largest increases in household size categories in Blacktown CBD between 2016 and 2021 census single person households, couples without children and group households.
- 8.3.7 The site is located within 450m of Blacktown railway station and bus interchange which is ideal for the needs of young working aged persons and tertiary students.
- 8.3.8 The current wait times for social housing in the Allocation Zone of Blacktown as published in <https://www.facs.nsw.gov.au/housing/help/applying-assistance/expected-waiting-times> for studio and one bedroom dwellings is 10+ years and for 2 bedroom dwellings is 5 to 10 years.
- 8.3.9 There is a clear need for 1 and 2 bedroom dwellings in Blacktown CBD and the proposed apartment mix is considered suitable to meet the needs of the community. This is especially the case with the new Australian Catholic University Campus in the CBD and the likely demand by students wanting to live close to the university while they study.
- 8.3.10 Objective 4K-2 to the ADG encourages the mix of apartment types to be distributed throughout a building with a variety of floor plan layouts and orientations.
- 8.3.11 The apartments proposed have a variety of floor plans and configurations including 1 and 2 bathrooms and some apartments with studies, cross through apartments, corner apartments and single aspect apartments. The layout is consistent with Objective 4K-2.
- 8.3.12 The Fairwater Estate being developed by Frasers nearby on Richmond Road caters for families offering a range of 800 x 3+ bedroom housing typologies close to the CBD.
- 8.3.13 On this basis the proposed mix of 1 to 2 bedroom units in this proposal meets to needs of the community and should be supported.

8.4 No dedicated reception space for the serviced apartments is considered acceptable

- 8.4.1 The proposed Stage 1 building includes 23 serviced apartments on the first floor level. Management of the serviced apartments is to be in accordance with the Plan of Management by THINK Planners dated August 2022 which is to be included in the list of approved documents in the recommended conditions of consent. The Plan of Management sets out the operational requirements for the serviced apartments. The maximum letting period is 3 months. There will be weekly cleaning of all common areas and regular inspections by the Manager including at tenant change-over. Bookings, complaints management, maintenance arrangements and contracting can be conducted online. Emergency situations are the responsibility of NSW Emergency Services providers. The Plan of Management requires signage displayed in the foyer area with the contact details for the manager and this information will be visible to all residents, commercial tenants and serviced apartment users. The Manager of the serviced apartments is to be available 24/7 according to the Plan of Management.

- 8.4.2 These provisions for management of the serviced apartments are considered appropriate for the circumstances. It will be clear by way of signage on common areas who is responsible for the ongoing management of the serviced apartments and how they can be contacted. On the basis of the implementation of the Plan of Management this arrangement for the serviced apartments is considered acceptable.

9 External referrals

- 9.1 The following referrals were issued to external authorities:

- 9.1.1 On 17 January 2022 Transport for NSW (TfNSW) was notified in accordance with Section 2.122 Traffic Generating Development to State Environmental Planning Policy (Transport and Infrastructure) 2021. Stage 1 will contain 324 dwellings. Schedule 3 to SEPP (Transport and Infrastructure) 2021 states that residential accommodation of 300 or more dwellings on any road is traffic generating development. To date no response has been received from TfNSW.
- 9.1.2 On 17 January 2022 Ampol Australia Petroleum Pty Ltd (formerly Caltex) was notified in accordance with Section 2.77 to SEPP (Transport and Infrastructure) 2021 for development in proximity to a pipeline. To date no response has been received from Ampol.
- 9.1.3 On 10 January 2022 The Civil Aviation Safety Authority (CASA) was notified. To date no response has been received from CASA.
- 9.1.4 On 18 November 2021 NSW Police was notified seeking comment in terms of Crime Prevention Through Environmental Design (CPTED). To date no response has been received from NSW Police.

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.
Architect	Acceptable, subject to conditions.
Waste	Acceptable, subject to conditions.
Traffic	Acceptable. On-site parking provisions are compliant
Engineering	Acceptable subject to conditions.
Stormwater	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

- 12.1 Uphold the request made under Clause 4.6 of Blacktown Local Environmental Plan 2015 to vary the maximum height of building development standard as it is well founded. Strict compliance with the development standard is unreasonable and unnecessary in the specific circumstances of this case and there are sufficient environmental planning grounds to justify the variation to the development standard including:
- a The proposal meets the objectives of the zone
 - b The proposal meets the objectives of the height of buildings development standard
 - c The extent of the non-compliance in comparison to the scale of the overall development on the site and in the context of surrounding existing and anticipated building heights ensures that the variation will not be perceivable to the casual observer and the overall building height, bulk and scale will be compatible with that reasonably anticipated for the site and its setting
 - d The architectural roof feature adds modulation and interest to the roofline of the building and is well resolved with the overall architectural design of the building, it will not obstruct views and outlooks, does not result in detrimental overshadowing and is a decorative element which does not contribute to gross floor area.
 - e The lift overrun is essential to provide all weather access to the communal rooftop terrace space.
 - f The parapet edge is consistent with the building design and will have no adverse impacts.
 - g The majority of the building mass is below the maximum height of buildings control and the non-compliance is in part a consequence of the existing ground levels across the large building footprint for the roof parapet and roof top elements only
- 2 Approve Development Application SPP-21-00011 for the reasons listed below, and subject to the conditions listed in attachment 8.
- a The site is suitable for the development. [s4.15(1)(c) of the Environmental Planning and Assessment Act 1979]
 - b The proposed development is a positive response to the constraints and conditions of the site and the applicable planning provisions and reasonably respects surrounding development. The proposal would provide adequate amenity for the future residents. [s4.15(1)(b) of the Environmental Planning and Assessment Act 1979]
 - c Minor departures from the planning controls are considered reasonable in the circumstance and do not warrant refusal of the application. [s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979]
 - d The proposal is in the public interest as it meets the objectives of the relevant planning instruments and controls. [s4.15(1)(e) of the Environmental Planning and Assessment Act 1979]
- 3 Council officers notify the applicant and submitter of the Panel's decision.

Per



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