

Supplementary report to the Sydney Central City Planning Panel

Panel reference: PPSSCC-405

Development application

DA number	SPP-22-00008	Date of lodgement	1 November 2022
Applicant	Ali Hammoud		
Owner	Illuminate NSW Limited		
Proposed development	<p>Demolition of existing structures, tree removal, construction of a new 3-storey primary school educational establishment over a basement car park with associated excavation and earthworks, stormwater and landscaping works over 3 stages:</p> <ul style="list-style-type: none"> • Stage 1 - erection of temporary demountable private school rooms and use of the existing house as an administration office and car park. • Stage 2 - construction of part of a new private 3-storey primary school educational establishment over a basement car park with associated excavation and earthworks, stormwater and landscaping works and then demolition of the Stage 1 car park. • Stage 3 - demolish demountable rooms and complete new school building and basement carpark. 		
Street address	39 Beames Avenue, Rooty Hill		
Notification period	30 November to 12 December 2022	Number of submissions	2

Assessment

Panel criteria Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021	<ul style="list-style-type: none"> • Capital investment value over \$5 million for private infrastructure and community facilities (proposal has a Capital investment value of \$19.5 million).
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Central City District Plan 2018 • Blacktown Local Strategic Planning Statement 2020 • Blacktown Local Environmental Plan 2015 • Blacktown Development Control Plan 2015
Original report date	24 May 2023
Panel meeting date and deferral	<p>Panel meeting held on 27 July 2023.</p> <p>The Panel deferred the determination of the application until:</p> <ul style="list-style-type: none"> • The applicant provided additional information to address Council's concerns identified in the original assessment report. • Council reviewed the plans submitted by the applicant on 28 March 2023.
This report date	20 September 2023

Report prepared by	Jared Spies
Recommendation	Approve, subject to conditions listed in attachment 4.

Attachments

1. Applicant's amendment plans
2. Applicant's amended Clause 4.6 variation request
3. Council assessment of the Applicant's amended Clause 4.6 variation request
4. Draft conditions of consent
5. Council original assessment report

Checklist

Summary of section 4.15 matters

Have 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)? Not applicable

Conditions

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

Contents

1	Executive summary	4
2	Previous Panel consideration of DA	4
3	Assessment of applicant's revised plans	4
4	Internal Referrals	7
5	Conclusion	8
6	Disclosure of political donations and gifts	8
7	Recommendation.....	8
8	Declaration and endorsement.....	9

1 Executive summary

- 1.1 This supplementary report is the second report on this proposal. This report considers additional information submitted by the applicant in response to the Panel's deferral of the development application on 27 July 2023.
- 1.2 The key issues that need to be considered by the Panel relate to the matters raised in its deferral and these are covered in Section 3 of this report.
- 1.3 Assessment of the amended plans and documentation against the relevant planning framework and consideration of matters by our technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.4 The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 4.

2 Previous Panel consideration of DA

- 2.1 The Sydney Central City Planning Panel met on 27 July 2023 to consider this development application and it made the following decision:

The Panel agreed to defer the determination of the matter until amended information is received from the applicant and the assessment of supplementary information is completed by Council as it was found that supplementary material had been lodged on the portal by the applicant on 28 March 2023 but not received by Council. Moreover, further amended information is required from the applicant. When this information has been received and assessed, the Panel will determine the matter electronically. The Panel expects an addendum assessment report from Council responding to the material and the matters raised above.

- 2.2 A copy of the original report is at attachment 5.

3 Assessment of applicant's revised plans

3.1 Satisfactory amended information received from the applicant on 24 August 2023

- 3.1.1 Whilst the plans dated 28 March 2023 did address some of Council's concerns on flooding, as outlined in the original report, further refinement was still required to address other concerns raised in relation to the overall height of the building, Transport for NSW matters and additional information required to enable us to finalise the assessment. These matters were discussed with the applicant in a meeting held on 28 July 2023.
- 3.1.2 The applicant submitted further amended plans and supporting documentation, on 24 August 2023; the key amendments of which are as follows:
 - Floor to ceiling heights have been reduced to lower the overall height of the building to 10.8 m (from 11.6 m as originally proposed).
 - The top floor has been set back 15 m from the southern boundary adjacent the town house development, which will reduce the bulk and scale of the building to 2 storeys at its southern façade. The lower levels are setback 7.5 m from the southern boundary.
 - The intended finished floor levels have now been provided for the proposed demountable buildings to show that they meet the minimum floor levels identified in the flood study. Access ramps have also been included to ensure an egress route is provided to the demountables that is above the minimum

floor level identified in the flood study. The ramps will also ensure the demountables are accessible.

- Driveway widths for Stage 1 have been increased to enable 2-way movement of vehicles.

3.1.3 Further information on key aspects of the additional information as they relate to the original report is set out in the points below.

3.2 Previous concerns raised by Transport for NSW have been addressed

3.2.1 The amended information was referred to Transport for NSW on 24 August 2023. It provided final comments on 14 September 2023 with conditions to be included in any consent granted. These conditions have all been included in the draft conditions at Attachment 4.

3.2.2 To address the issues raised, the applicant has supplied an updated traffic report and SIDRA modelling. The plans have also been amended to include construction of a new concrete pathway on the opposite side of Beames Avenue from the school to allow pedestrians to safely access the proposed pedestrian crossing over Beames Avenue in the event that children are dropped off on that side of the road. The proposed location of school zone signage has also been shown on the amended plans.

3.2.3 This satisfactorily address all the issues identified in Section 8.1 of the original report, subject to conditions.

3.3 An existing legal right of connection to the drainage easement exists benefiting the subject site

3.3.1 The easement report provided indicates that the applicant can already discharge stormwater into the drainage easement at the rear of the site. An existing legal right of connection to the easement exists benefiting the subject site and burdening the southern adjoining strata townhouse complex. No works are proposed within the easement that would change or intensify the impacts on the existing drainage easement.

3.3.2 Given no intensification on the easement is proposed, owner's consent from the burdened property is not required as the land owner benefiting from the easement is able to rely on the inherited consent to carry out works within the easement. This satisfactorily addresses the issue identified in Section 8.2 of the original report on the applicant requiring owner's consent to drain into the easement.

3.4 The applicant has satisfactory addressed concerns on flood impacts

3.4.1 The amended information also contained an updated flood study and amended stormwater plans. The plans have been amended so that the ground floor level of the building is now compliant with the minimum floor level of 47.5 m Australian Height Datum identified in the amended flood study. Levels have been provided for the Stage 1 demountable buildings that also comply with the minimum floor levels. We are now satisfied that the key objectives of Clause 5.21 of Blacktown Local Environmental Plan 2015 relating to flood planning is achieved as flood risks have been minimised and the site can be safely occupied and evacuated in the event of a flood.

3.4.2 Our drainage section has reviewed this information and found it satisfactory, subject to conditions of consent. This satisfactorily addresses the flooding concerns identified in the original report at 8.3 regarding flood impacts. It also satisfies part of the issues identified 8.4, specifically Principle 4 of the design quality principles of the State Environmental Planning Policy (Transport and Infrastructure) 2021 relating to the health and safety of future occupants/users.

3.5 The applicant has satisfactorily addressed concerns relating to inconsistencies with the design quality principles for a school in State Environmental Planning Policy (Transport and Infrastructure) 2021

3.5.1 To satisfactorily address our issues identified in Section 8.4 of the original report, regarding Principle 4 - health and safety, Principle 5 - amenity and Principle 7 - aesthetics of the State Environmental Planning Policy (Transport and Infrastructure) 2021, the plans have been amended as follows:

- Principle 4 is now addressed given the resolution of the flood issues as outlined above.
- Principle 5 - amenity is now addressed given:
 - The height, bulk and scale of the proposed 3-storey building has been refined to further setback the upper floor from the southern property along with a reduction in the overall height of the development by 800 mm.
 - The overall maximum building height has been reduced to 10.8 m. This is the overall maximum building height for the 3-storey component measured at the southern 15 m rear setback line. However, it is noted that the rear of the development now appears as 2 storeys and this portion of the development has a maximum building height of 7.5 m at its southern end, well below the applicable 9 m maximum building height. This 2-storey built form to the rear is in keeping with the 2-storey character of the townhouse development to the south.
 - The second floor now includes a privacy screen treatment comprising a 600 mm solid balustrade with an additional 900 mm privacy screen above for the south facing balcony. This privacy treatment provides an overall 1.5 m screening above the finished floor level to the south facing edge towards the townhouse complex to the south, which will prevent overlooking directly onto the southern townhouse complex. Notwithstanding this addition/amendment, a condition of consent has been imposed that requires the 900mm privacy screen to be frosted glass.
 - The third floor south-facing balcony has been deleted and made to be a non-trafficable roof with the third floor further setback 15 m from the southern boundary.
 - South-facing windows for the third floor are all highlight windows with minimum sill heights of 1.8 m that will prevent any overlooking from within the multi-purpose room to the townhouse complex to the south.
 - Increased southern setbacks now provide a minimum separation distance of 22.5 m on ground and first floor, and 30 m on the second floor from the townhouse complex to the south. As a result, the amended shadow diagrams now demonstrate that the proposed development will have no solar impact on the closest dwelling to the south with the proposed development causing no overshadowing onto the dwelling's northern façade.
- Principle 7 - aesthetics is now addressed given the amended development is more sympathetic to the overall low-density residential character of development in the locality and surrounding the site by appearing as a 2-storey building from the street and rear, and providing increased setbacks, articulation and fixed privacy treatments that integrate into the overall design and aesthetic quality of the development. It is therefore considered that the proposal will have a positive impact on the aesthetic quality and character of the surrounding neighbourhood.

3.6 The applicant has submitted a satisfactory amended Clause 4.6 variation request

- 3.6.1 The applicant has lodged an amended Clause 4.6 variation request to vary the 9 m maximum building height prescribed by Blacktown Local Environmental Plan 2015 by 1.8 m or 20%. The overall height of the building is now proposed to be lower at 10.8 m. The amended Clause 4.6 variation request is at attachment 2.
- 3.6.2 Importantly, the highest point of the building that used to face to the southern townhouses has been stepped back 7.5 m further than the first floor to now reduce its appearance to a 2-storey development. The overall height of the buildings has also been reduced from 11.6 m to 10.8 m by lowering the floor to ceiling heights.
- 3.6.3 It remains unclear how the lift will operate in the absence of a lift overrun, but there are lift mechanisms that operate from beneath the lift. Notwithstanding this, a condition of consent has been imposed preventing lift overruns from being installed above the roof of the building without separate consent. Details of the lift's operation are also to be provided as part of the Construction Certificate plans.
- 3.6.4 We now support the applicant's Clause 4.6 variation in this instance for the reasons set out in attachment 3, namely that the proposed school building will be less bulky and lower in height. This satisfactorily addresses the issue identified in Section 8.5 of the original report regarding Council not being supportive of the previous Clause 4.6 variation request as it was excessive.

3.7 The applicant has amended the staging plan regarding demolition of the Stage 1 car park

- 3.7.1 The staging of the development has now been altered so that the Stage 1 car park is only demolished after the completion of Stage 2, at which point the basement and lower ground parking levels will be operational so as to make the Stage 1 car park redundant.
- 3.7.2 Conditions of consent have been imposed to ensure this sequencing occurs. This satisfactorily addresses the issue identified in Section 8.8 of the original report regarding the previously unacceptable premature demolition of the Stage 1 car park.

3.8 The applicant has submitted sufficient information for our assessment of the proposal's environmental impacts

- 3.8.1 The additional information provided has now enabled Council to adequately assess the school's potential environmental impacts. Our environmental health, traffic, engineering, drainage, biodiversity and open space sections are now all satisfied with the additional information and have provided conditions of consent. This satisfactorily addresses the issues identified in Sections 8.6 and 8.7 of the original report regarding insufficient information being provided to enable a proper assessment of the proposed development. Refer to Section 4, Internal referrals for details.

4 Internal Referrals

- 4.1 The development application was referred to the following internal sections of Council for comment:

Section	Comments
Building	Acceptable, subject to conditions
Environmental Health	Acceptable, subject to conditions

Section	Comments
Open Space Maintenance	Acceptable, subject to conditions
Biodiversity	Acceptable, subject to conditions
Engineering	Acceptable, subject to conditions
Drainage	Acceptable, subject to conditions
S7.11 Contributions	Acceptable, subject to conditions
Traffic	Acceptable, subject to conditions

5 Conclusion

- 5.1 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.

6 Disclosure of political donations and gifts

- 6.1 Under Section 10.4 of the Environmental Planning and Assessment Act 1979, a disclosure statement must be lodged in certain circumstances in relation to any planning application, i.e. a development application, an application to modify a consent and an application to make an environmental planning instrument or development control plan.
- 6.2 A disclosure statement of a reportable political donation or gift must accompany a planning application or submission (including a submission either objecting to or supporting the proposed development) if the donation or gift is made within 2 years before the application or submission is made. If the donation or gift is made after the lodgement of the application, a disclosure statement must be sent to Council within 7 days after the donation or gift is made. The provision also applies to an associate of a submitter.
- 6.3 A disclosure statement may be made available for viewing upon a written request to Council in line with Section 12 of the Local Government Act 1993.
- 6.4 Disclosures:
- | | | |
|-----------------------|---|-----------------|
| • Political donations | Has a Disclosure statement been received in relation to this application? | Yes |
| | If yes, provide Disclosure statement register reference | Ref: D22/552831 |
| • Gifts | Have staff received a 'gift', that needs to be disclosed, from anyone involved with this application? | No |

7 Recommendation

- 1 Uphold the variation to the height of buildings development standard in Clause 4.3 of Blacktown Local Environmental Plan 2015 using Clause 4.6 for the following reasons:
- a The request is well founded and warrants support given the maximum building height, massing and location of the building on the site.

- b The proposal provides a well-balanced built form for a primary school development when viewed from the public domain with a design that is generally in keeping with the character of the local area
 - c Adherence to the height standard is unnecessary in this instance as no adverse impacts will result from the minor variations to the building height map.
 - d The proposal will create a positive outcome thus providing sufficient environmental planning grounds to satisfy the minor variations. The variations will foster development that is consistent with the zone objectives and is still in the public interest.
- 2 Approve SPP-22-00008 for the reasons listed below, and subject to the conditions listed in attachment 4:
- a It is considered that there will be no adverse impacts on the natural or built environment in this area from this development [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].
 - b The site is considered suitable for the proposed development [Section 4.15(c) of the Environmental Planning and Assessment Act 1979].
 - c The proposed primary school development will provide additional educational facilities that will cater for the growing population of Blacktown City. It will also facilitate employment generating uses, which is consistent with the aims of the State Environmental Planning Policy (Industry and Employment) 2021. On this basis it is in the public interest to have the school built [Section 4.15(e) of the Environmental Planning and Assessment Act 1979].
 - d The Clause 4.6 variation is considered acceptable under Blacktown Local Environmental Plan 2015 and under the provisions of Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979.
- 3 Council officers to notify the applicant and submitters of the Panel's decision.

8 Declaration and endorsement

We, the undersigned, declare, to the best of our knowledge that we have no interest, pecuniary or otherwise, in this development application or persons associated with it; and we have provided an impartial assessment.



Jared Spies
Senior Development Assessment Planner



Sami Ahangari
Coordinator Planning Assessment



Judith Portelli
Acting Director City Planning and Development