

# Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-406

## Development application

<b>DA number</b>	SPP-22-00007	<b>Date of lodgement</b>	19 October 2022
<b>Applicant</b>	Baini Design Pty Ltd		
<b>Owner</b>	CD Civic Pty Ltd		
<b>Proposed development</b>	Consolidation of lots, demolition of existing structures, removal of trees, construction of a 3-storey centre-based childcare facility for 140 children over basement car parking, and associated works.		
<b>Street address</b>	21 - 23 Olive Street, Seven Hills		
<b>Notification period</b>	25 November - 9 December 2022	<b>Number of submissions</b>	Nil

## Assessment

<b>Panel criteria</b> Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021	<ul style="list-style-type: none"> <li>Community facilities with a capital investment value of more than \$5 million (child care centre).</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 (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Blacktown Local Environmental Plan 2015</li> <li>Blacktown Development Control Plan 2015</li> <li>Blacktown Local Strategic Planning Statement 2020</li> <li>Central City District Plan 2018.</li> </ul>
<b>Report prepared by</b>	Bertha Gunawan
<b>Report date</b>	6 June 2023
<b>Recommendation</b>	Approval, subject to conditions listed in attachment 7

## 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 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
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**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

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**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? Not applicable

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? No

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**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 proposed removal of 4 trees. The trees are not considered to be significant native vegetation and their removal is acceptable subject to the submitted landscape plan which will provide 20 new trees on the site. Additional street trees will also be required to be provided.
  - The extent of site excavation required for the proposed basement car parking, which will exceed the maximum cut allowance of 900mm from the natural ground level. This is considered acceptable as it will provide safe vehicular access for visitors, avoid traffic congestion on the street during the drop and pick up hours and is necessary to provide an onsite detention system.
  - Blacktown Development Control Plan 2015 includes requirements for the provision of child care centre facilities to be limited to the ground floor, other than storage and office areas. This requirement is intended for child care centre developments in R2 - Low Density Residential with a maximum building height of 9m. It would be unsuitable to be applied on the subject site which is zoned R4 - High Density Residential allowing a maximum building height of 20m. State Environmental Planning Policy (Transport and Infrastructure) 2021 provides design considerations for above ground floor play areas, by reference to the Department's Childcare Planning Guideline 2021 and therefore those provisions or the Development Control Plan do not apply.
  - Potential site isolation issue from the proposed amalgamation of 2 lots as a corner site. The site is zoned R4 - High Density Residential. The adjoining and surrounding properties will remain capable of being developed independently. Furthermore, the subject site will also be capable of being redeveloped independently as a residential flat building in the future, as the required minimum 30m site frontage and a minimum 900m<sup>2</sup> site area are both provided.
- 1.2 Assessment of the application 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.
- 1.3 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 recommended conditions listed in attachment 7.

## **2 Location**

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- 2.1 The site is located on the eastern corner of Olive Street at its intersection with William Street, Seven Hills.
- 2.2 The site is zoned R4 - High Density Residential under Blacktown Local Environmental Plan 2015 and a centre-based child care centre is permissible with consent. The zoning plan for the site and surrounds is at attachment 3.
- 2.3 The surrounding area is characterised by dwelling houses. The eastern side properties on Olive Street are zoned R4 but those on the western side are zoned R2 - Low Density Residential. The building height limit for the R4 zoned area is 20 m.
- 2.4 No 10 Olive Street, opposite the subject site, is Our Lady of Lourdes Primary School, which extends to No 9 Grantham Road, and No. 108 Best Road opposite the site on William Street is the Seven Hills - Toongabbie RSL Club. The site is also approximately 250 m from Best Road Reserve (to the south-east).
- 2.5 The location of the site is shown at attachment 1.

### **3 Site description**

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- 3.1 The site will be a consolidation of 2 lots: Lots 98 (No. 23 Olive Street) and 99 (No. 21 Olive Street) in DP 14294. The consolidated site area will be 1,359.5m<sup>2</sup>, with a frontage of 27.819 m to Olive Street and 39.74 m to William Street.
- 3.2 Both Nos. 21 and 23 Olive Streets contain single storey dwelling houses.
- 3.3 An aerial image of the site and surrounding area is at attachment 2.

### **4 Background**

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- 4.1 Upon preliminary assessment of the proposal, the applicant was advised of drainage issues on 6 December 2022, with further requests for information on 29 December 2022 (waste), and on 20 January 2023 (engineering).
- 4.2 The applicant provided responses to those issues on 8 February 2023.
- 4.3 A kick-off briefing was held with the Sydney Planning Panel on 23 February 2023. The Panel was briefed on the proposal and advised of the engineering and waste issues that we were working to resolve.
- 4.4 We have now received all the required information and confirmation from other internal sections that the proposed development is satisfactory.

### **5 The proposal**

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- 5.1 The development application was lodged by Baini Design Pty Ltd.
- 5.2 The applicant proposes the amalgamation of 2 lots and construction of a 3-storey centre-based childcare centre for 140 children with 2 basement levels containing 44 car parking spaces.
- 5.3 The proposed ground floor will include 74m<sup>2</sup> of indoor space, a cot room and 148m<sup>2</sup> of outdoor space for 20 children between 0 - 2-year old, 108m<sup>2</sup> of indoor space and 215m<sup>2</sup> of outdoor space for 30 children between 2 3-year old, an office room, kitchen area, laundry and a staff room.
- 5.4 The proposed first floor will include 195m<sup>2</sup> of indoor space and 420m<sup>2</sup> of outdoor space for 60 children between 3 - 5-year old
- 5.5 The proposed second floor will include 122m<sup>2</sup> of indoor spaces and 268m<sup>2</sup> of outdoor spaces for 30 children between 3 - 5-year old.
- 5.6 The proposed hours of operation will be 7 am to 6 pm, Monday to Friday.
- 5.7 Other details about the proposal are at attachment 4, and 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, including:
  - Environmental Planning and Assessment Act 1979.
  - State Environmental Planning Policy (Resilience and Hazards) 2021.
  - State Environmental Planning Policy (Transport and Infrastructure) 2021.
  - 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**

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- 7.1 The proposed development was notified by letter to 66 property owners and occupiers in the locality between 25 November and 9 December 2022. The proposal was also made accessible on Council's website under the Development Register section. A development proposal sign was also fixed on the site.
- 7.2 We received no submissions.

## **8 Key issues**

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### **8.1 Tree removal will be offset by new plantings**

- 8.1.1 The submitted survey plan shows 3 existing trees between 7 and 12 m tall on the subject properties, which are proposed for removal. However, the submitted Arborist report Ref 7849 prepared by Red Gum Horticultural dated 23 May 2022 identifies 1 additional tree on the site to be removed. The proposed 4 trees to be removed are 2 x Crepe Myrtles, a Sweet Gum and a White Cedar, which are not considered to be significant native vegetation under Blacktown Development Control Plan 2015.
- 8.1.2 The proposed landscape plan indicates the provision of 20 new trees between 5 and 8 m tall at maturity, among other shrubs and vegetation. They are made up of Palm, Pear, Myrtle and Gum trees.
- 8.1.3 An existing Bottlebrush street tree on the south-east side of the property and a Sweet Gum tree on the northern side on the adjoining property No. 19 Olive Street are to be retained. The Arborist's report recommends:
- Root mapping investigation.
  - Establishing tree protection zones.
  - Supervised digging by the project arborist.
  - Using sensitive construction techniques.
- 8.1.4 Council's Landscape Officer is satisfied with the Arborist report and the proposed landscape plan, and does not raise any concerns with the proposed tree removal and proposed planting. Additional street plantings are also capable to be provided along Olive and William Streets, and the relevant conditions will be imposed accordingly and which will further soften the streetscape appearance.

### **8.2 Site excavation will exceed 900mm due to new proposed basement parking**

- 8.2.1 Section 3.5.4 of Part C of Blacktown Development Control Plan 2015 specifies a maximum depth of any cut at 900 mm below the natural ground level. The proposal includes provision of a basement car park with waste storage rooms and an onsite stormwater detention tank at a depth of 6.7 m. The excavation for the basement will be set back 2 m from the adjoining property to the north and 3.255 m from the adjoining property to the east.
- 8.2.2 The proposal to exceed the maximum cut is supported as on-street pick-up and drop-off areas can impact traffic flow and street parking availability. A basement car parking will allow for staff parking and a drop-off and pick-up area within the site and therefore is considered to achieve a better traffic outcome. The proposed onsite stormwater detention tank is considered to be in an appropriate location as it is on the lower side of the site. The proposed waste storage rooms in the

basement area will also be more secure with no amenity impacts on the neighbours.

- 8.2.3 Additionally, the ground floor area will not be impacted by car parking and will be able to be fully utilised for outdoor play areas and landscaping.
- 8.2.4 The site is zoned R4 - High Density Residential, which implies higher density buildings with excavation for basement car parking. In this instance, the proposed child care centre with basement car parking is consistent with the desired future character of the area.
- 8.2.5 A condition is recommended for a dilapidation report to be undertaken to ensure that the proposed excavation works do not affect any of the adjoining properties and Council assets such as footpaths, kerb and roads.

### **8.3 A proposed multi storey child care is permitted by the State Environmental Planning Policy (Transport and Infrastructure) 2021**

- 8.3.1 Section 8.3.6 of Blacktown Development Control Plan 2015 outlines that child care centre developments 'must' have a maximum of 2 storeys, with the child care facilities other than office space and storage limited to the ground floor. We note that the first objective of Section 8.3.6 encourages a building design that is consistent with the desired character of the area, and the second objective aims to provide a safe, healthy and a functional education environment for children.
- 8.3.2 The 2-storey requirement would seem to be intended for child care centre developments in R2 – Low Density Residential with a maximum building height of 9 m, which is not the desired character for this particular site that is zoned R4 – High Density Residential with a maximum building height of 20 m. The proposal will be 3 storeys with a 10.7m building height.
- 8.3.3 Part 3 of the Child Care Planning Guideline as referenced in the State Environmental Planning Policy (Transport and Infrastructure) 2021 includes design considerations for above ground floor play areas, therefore suggesting that child care centre facilities can be provided on a floor other than the ground floor. It also limits child care centres in R2 zones to a maximum FSR of 0.5:1 (unless prescribed elsewhere).
- 8.3.4 Therefore, given the location of this proposal, the design of this child care centre will complement the desired future character of this area.
- 8.3.5 Part 4 of the Child Care Planning Guideline also includes safety considerations and the required provisions of adequate play areas for the children. This proposal has addressed those requirements (refer to Attachment 6 for detailed assessment) on all 3 floors.
- 8.3.6 Therefore, given the safety measures and adequate amenity provisions in the proposed child care centre, the proposal will provide a safe, healthy and functional educational environment.
- 8.3.7 Clause 3.27 of SEPP (Transport and Infrastructure) 2021 confirms that the DCP requirements do not apply should the proposal addresses the matters for considerations set out in Parts 3 and 4. Based on these circumstances, the DCP requirements limiting the use of child care facilities to the ground floor are not applicable to this case.

### **8.4 There will be no site isolation from the proposed amalgamation of lots in the R4 High Density Residential zone**

- 8.4.1 The proposed development includes the amalgamation of 2 lots to form a corner site. The site is zoned R4 - High Density Residential. The adjoining north-western and north-eastern properties are also zoned R4.

- 8.4.2 These neighbouring properties are capable of being developed independently. The subject site, after the amalgamation, also will be capable of being redeveloped independently as a residential flat building or any other form of permissible development in the future, noting that Blacktown DCP 2015's residential flat building requirements under Section 6, for a minimum frontage of 30m and minimum of 900m<sup>2</sup> site area are provided.
- 8.4.3 Therefore, the proposal will still enable the neighbouring lots to be developed for a permitted land use in the future without any reliance on this land.

## 9 External referrals

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- 9.1 The development application did not necessitate a referral to any external authority.

## 10 Internal referrals

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

Section	Comments
Traffic	Acceptable, subject to conditions.
Environmental Health	Acceptable, subject to conditions.
Development Engineer	Acceptable, subject to conditions.
Drainage Engineer	Acceptable, subject to conditions.
Building	Acceptable, subject to conditions.
Open Space	Acceptable, subject to conditions.
Social Planning	Acceptable, subject to conditions
Section 7.11 Contributions	Contributions are not required as the site does not fall within the Breakfast Creek Catchment area, and there is no residential component to the development.

## 11 Conclusion

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- 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 Disclosure of political donations and gifts

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- 12.1 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.
- 12.2 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.

12.3 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.

12.4 Disclosures:

- Political donations      Has a Disclosure statement been received in relation to this application?      No
- Gifts                      Have staff received a 'gift', that needs to be disclosed, from anyone involved with this application?      No

## 13 Recommendation

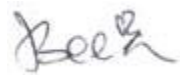
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- 1 Approve Development Application SPP-22-00007 for the reasons listed below, and subject to the conditions listed in attachment 7.
  - a The proposal is consistent with the applicable environmental planning instrument (Section 4.15(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979)
  - b The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality have been assessed to be satisfactory (Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979)
  - c Based on the satisfactory assessment of the proposed development, the site is suitable for a 3-storey child care centre (Section 4.15(c) of the Environmental Planning and Assessment Act 1979)
  - d The proposal is in the public interest as it will provide additional capacity to meet the growing demand for child care places in the area (Section 4.15(e) of the Environmental Planning and Assessment Act 1979)
- 2 Council officers notify the applicant of the Panel's decision.

## 14 Declaration and endorsement

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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.




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Bertha Gunawan  
Senior Town Planner




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Alan Middlemiss  
Coordinator Planning Assessment



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Judith Portelli  
Manager Development Assessment



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David Apps  
Acting Director City Planning and Development