

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-446

Development application

DA number	DA-23-00337	Date of lodgement	1 May 2023
Applicant	Universal Property Group Pty Ltd		
Owner	Sneh & Samisha Pty Ltd		
Proposed development	Construction of a 21-storey commercial tower with a height of 82.88m consisting of 6 levels of basement parking, ground floor retail, levels 1 -2 function centre, level 3 recreational facility and levels 4 - 20 office space.		
Street address	30 First Avenue, Blacktown		
Notification period	24 May to 7 June 2023	Number of submissions	3

Assessment

Panel criteria Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021	<ul style="list-style-type: none"> Development with a capital investment value (CIV) of more than \$30 million. The proposal has a CIV of \$33,690,315.
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 Water Management Act 2000 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 Blacktown Local Environmental Plan 2015 Blacktown Development Control Plan 2015 Central City District Plan 2018 Blacktown Local Strategic Planning Statement 2020.
Report prepared by	Olivia Betts
Report date	23 October 2023
Recommendation	Refuse, based on the grounds listed in the report.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Maximum height limit
- 5 Detailed information about proposal and DA submission material
- 6 Development application plans
- 7 Applicant's Clause 4.6 variation submission

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)?

Not applicable

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1 Executive summary

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- The proposal fails to exhibit design excellence required by Clause 7.7 of Blacktown Local Environment Plan 2015.
 - The applicant's Clause 4.6 variation to the maximum building height does not provide satisfactory justification.
 - The proposal fails to provide adequate parking and assessment of traffic.
 - The proposal does not include sufficient evidence to determine if the site is suitable for the proposed development under Clause 4.6(1) of the State Environmental Planning Policy (Resilience and Hazards) 2021.
 - Land owner's consent from Sydney Trains and concurrence from Sydney Trains under Clause 2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021 has not been provided (and is required).
 - The proposal fails to provide adequate information for WaterNSW to assess the integrated referral required under Section 90(2) of Water Management Act 2000 (NSW).
 - The proposal is not in the public interest as the objections received warrant refusal of the application.
 - The proposal fails to provide adequate provision for assessment of drainage and engineering matters.
 - The signage proposed on the parapets is not considered to be keeping with the character of the area.
 - The proposal does not include sufficient information in relation to the statement of environmental effects, assessment on salinity and geotechnical, acoustics and vibration, survey plan, cost of works, feasibility study, tree removal and waste management.
- 1.2 The above issues of concern cannot be dealt with by conditions.
- 1.3 On this basis, the application is considered to be unsatisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel refuse the application based on the grounds listed in the Recommendation at Section 13 of this report.

2 Location

- 2.1 The site is rectangular in shape with an area of 1,240 m² and has frontage to First Avenue, Bous Avenue and Humphries Lane.
- 2.2 The surrounding land to the north, east and west of the site is zoned MU1 Mixed Use, with the land to the south being zoned SP2 Rail Corridor and land to the north-west being zoned R31 Public Recreation under Blacktown Local Environment Plan 2015.
- 2.3 The property immediately to the north of the site (separated by First Avenue), with the street address 23-27 First Ave, Blacktown, is a 2-storey medical centre. The property immediately to the south of the site (separated by Humphries Lane), contains an at-grade parking lot.
- 2.4 The property immediately to the east, adjoining the site, is a multi-storey commercial and residential apartment building.

- 2.5 Blacktown Train Station entrance is located approximately 120 m from the site and the railway line corridor is approximately 70 m from the southern boundary of the site.
- 2.6 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The development site is legally described as Lot 2 DP 550677, 30 First Avenue, Blacktown.
- 3.2 The site is zoned MU1 Mixed Use under Blacktown Local Environment Plan 2015. The zoning plan for the site and surrounding area is at attachment 3.
- 3.3 The site has a maximum height limit of 80 m under Blacktown Local Environment Plan 2015. The maximum height plan for the site and surrounding area is at attachment 4.
- 3.4 The site currently contains a single storey commercial building of brick construction. There are existing vehicle crossings off First Avenue.
- 3.5 The site slopes down from the south to north by approximately 3.5 m over a distance of 41 m.
- 3.6 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 On 5 September 2022, demolition of existing structures was approved under DA-22-00986.
- 4.2 On 1 May 2023, the subject application, DA-23-00337, was lodged.
- 4.3 On 15 June 2023, a briefing meeting was held with the Sydney Central Planning Panel where the applicant and Council were invited to attend. The applicant attended the meeting and presented the proposal to the Panel.
- 4.4 On 27 June 2023, the applicant filed the Class 1 Application in the Land and Environment Court of NSW, commencing proceedings as an appeal against Council's deemed refusal of the application.
- 4.5 On 4 August 2023, Council's Statement of Facts and Contentions was filed with the Land and Environment Court.
- 4.6 On 23 August 2023, the applicant was to file and serve any Statement of Facts and Contentions in Reply. They elected not to do so.
- 4.7 The section 34 conference is listed for 19 January 2024.

5 The proposal

- 5.1 The development application has been lodged by Universal Property Group Pty Ltd.
- 5.2 The applicant proposes construction of a 21-storey commercial tower with a height of 82.88 m comprising:
- 6 levels of basement car parking containing 155 car spaces,
 - Ground floor retail premises (with a gross floor area of 990 m² and opening hours from 7.00 am to 10.00 pm, Monday to Sunday),
 - Level 1 and 2 function centres (with a gross floor area of 696.25 m² and opening hours from 10.00 am to midnight, Monday to Sunday),
 - Level 3 indoor recreational facility a gross floor area of 352.27 m²,

- Level 4 - 20 office use (with a gross floor area of 11,995.65 m² and opening hours from 7.30 am to 9.00 pm, Monday to Friday),
- Stormwater drainage,
- Landscaping,
- Site works, and
- A clause 4.6 variation request to vary the maximum height.

5.3 Other details about the proposal are at attachment 5, and a copy of the development plans is at attachment 6.

6 Assessment against planning controls

6.1 A summary assessment of the development application against the section 4.15(1)(a) matters is provided below but only for those planning controls that directly relate to its refusal.

6.2 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment
1. The provisions of: (i) Any environmental planning instrument	<p>The proposal is not consistent with the relevant environmental planning instruments including the provisions of Environmental Planning and Assessment Act 1979, Water Management Act 2000, Blacktown Local Environmental Plan 2015, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021 for the following reasons:</p> <ul style="list-style-type: none"> • General terms of approval have not been provided by WaterNSW in line with Clause 4.47 of Environmental Planning and Assessment Act 1979 and Clause 90(2) of Water Management Act 2000. • Insufficient and inadequate information has been submitted to enable complete assessment of the application in line. • The proposal fails to exhibit design excellence required by Clause 7.7 of Blacktown Local Environment Plan 2015. • The proposal includes a Clause 4.6 variation to the maximum building height and does not provide satisfactory justification under Blacktown Local Environment Plan 2015. • Concurrence has not been provided from Sydney Trains as required under Clause 4.13 of Environmental Planning and Assessment Act 1979 and Clause 2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021. • Insufficient evidence has been provided to determine if the site is suitable for the proposed development under Clause 4.6(1) of the State Environmental Planning Policy (Resilience and Hazards) 2021 in relation to contamination.
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	<p>Draft State Environmental Planning Policy (Environment)</p> <p>The draft State Environmental Planning Policy (Environment) was exhibited between October 2017 and January 2018 and seeks to simplify the NSW planning system and reduce complexity without</p>

Heads of Consideration	Comment
	<p>reducing the rigour of considering matters of State and Regional significance.</p> <p>The draft policy effectively consolidates several State Environmental Planning Policies including:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy 19 Bushland in Urban Areas. • State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011. • Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River (No. 2 - 1997). • Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment. • And removes duplicate considerations across Environmental Planning Instruments. <p>The proposal is inconsistent with this draft instrument as discussed in section (i) above.</p> <hr/> <p>Draft State Environmental Planning Policy (Remediation of Land)</p> <p>The draft State Environmental Planning Policy (Remediation of Land) was exhibited from January to April 2018 with the intent that it repeals and replace State Environmental Planning Policy 55 - Remediation of Land (SEPP 55) in relation to the management and approval pathways for contaminated land.</p> <p>SEPP 55 has since been repealed and its provisions were consolidated into State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 4. However, Chapter 4 of this new policy does not include the changes that were exhibited in 2018 and those provision are still under review.</p> <p>The draft State Environmental Planning Policy (Remediation of Land) will:</p> <ul style="list-style-type: none"> • Provide a state-wide planning framework for the remediation of land. • Maintain the objectives and reinforce those aspects of the existing framework that have worked well. • Clearly list the remediation works that require development consent. • Categorise remediation work based on the scale, risk and complexity of the work. • Require environmental management plans relating to post remediation, maintenance and management of on-site remediation measures to be provided to Council. <p>The proposal is inconsistent with this draft instrument as discussed in section (i) above.</p>
(iii) Any development control plan	<p>Blacktown Development Control Plan 2015 applies to this site.</p> <p>The following matters are non-compliant under Part D of the control plan:</p> <ul style="list-style-type: none"> • Section 5.2 Car Parking requires commercial / office premises car parking rates to be '1 space per 30 m² gross floor area, plus 1 space per 2,000 m² gross floor area for courier/service vehicles. The proposal will only provide 155

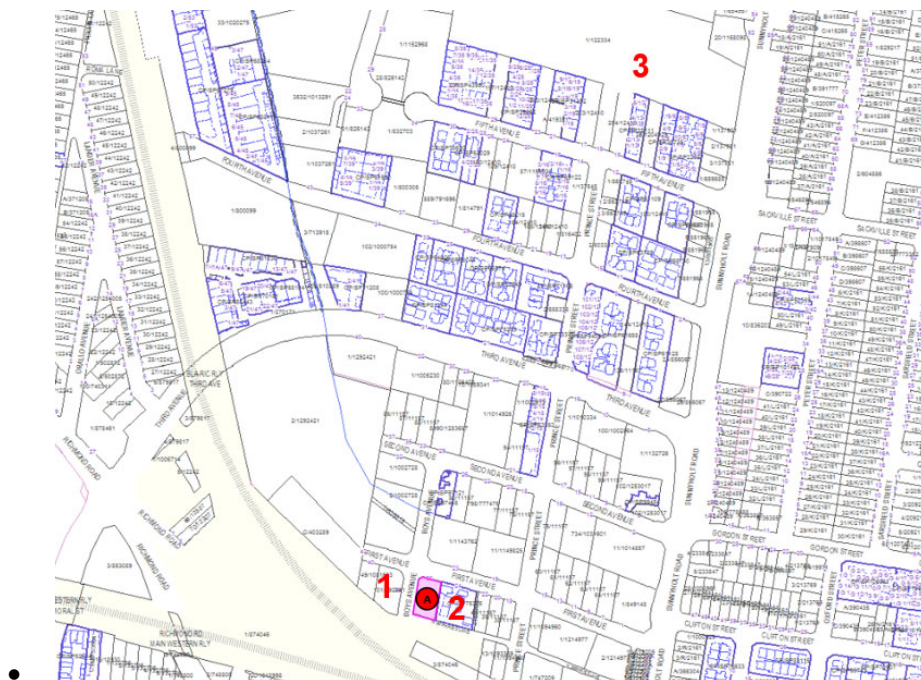
Heads of Consideration	Comment
	<p>spaces which is a rate of approximately 1 space per 100 m² gross floor area. Hence there will be a short fall of 321 spaces.</p> <ul style="list-style-type: none"> Section 4.6 Vehicular Access and Circulation states 'parking areas should have a separate entrance and exit where more than 50 car spaces are provided or where the development generates a high turnover of traffic (i.e. a supermarket or drive-in service facility'. The proposal provides one access point for 155 vehicles and deliveries.
(iii a) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4	N/A
(iv) The regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Insufficient information in relation to variation to height, design, car parking, traffic measures, noise assessment, vibration, site contamination, geotechnical, waste management, tree removal, drainage, feasibility study has been provided as required by Clause 24 of the Environmental Planning and Assessment Regulation 2021.
2. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	<p>It is considered that the proposed development represents an overdevelopment of the site as inadequate information has been provided on the variation to height, design, car parking, traffic measures, noise assessment, vibration, site contamination, geotechnical, waste management, tree removal, drainage, feasibility study. These unaddressed matters will have significant impact on the natural, built environment, social and economic environment .</p> <p>There is inadequate information to enable a complete and full assessment of the proposed development's likely impacts.</p>
3. The suitability of the site for the development	There is inadequate information in relation to variation to height, design, car parking, traffic measures, noise assessment, vibration, site contamination, geotechnical, waste management, tree removal, drainage and feasibility study as referred in Section 1 and described in Section 8 of this report to determine if the site is suitable for the proposed development. On this basis, the site is not suitable for the proposed development.
4. Any submissions made in accordance with this Act, or the regulations	The application was exhibited for a period of 14 days from 24 May to 7 June 2023 with 3 submissions being received. The submissions raised matters that are considered sufficient to warrant refusal of the application, these matters have been included in the Statement of Facts and Contentions to the Land and Environment Court and are also listed in the Key issues and grounds of refusal of this report and discussed in greater detail in section 7.

Heads of Consideration	Comment
5. The public interest	The proposal is not in the public interest as the proposal in its current form will have serious adverse impacts on the surrounding built and natural environment in relation to the submissions received raised relevant grounds of refusal. See Section 7 for a summary of these concerns.

7 Issues raised by the public

7.1 The proposed development was notified to 968 property owners and occupiers in the locality between 24 May and 7 June 2023. The development application was also advertised on Council's website under "Have Your Say" and a sign was erected on the site.

7.2 We received 3 submissions from the following locations identified below.



Extract from Gisweb including submission numbering

Submission details	Issues raised
<p>1. Peter Monaghan from Marist 180 and Fiona Dorrans from DFP planning on behalf of Marist 180</p> <p>36 First Avenue, Blacktown</p>	<ul style="list-style-type: none"> • Inconsistencies between documents. • Questioning cost of works. • Architectural Plans not considering building separation under Apartment Design Guidelines. • Construction management plan issues around traffic and parking. • Unsatisfactory acoustics assessment, noise and vibration. • Unsatisfactory waste management plan and deliveries. • Unsatisfactory site contamination. • Unsatisfactory geotechnical investigations. • Survey plan insufficient.

<p>2. Yu Chen & Jingliang Chen 36/24 First Avenue, Blacktown</p>	<ul style="list-style-type: none"> • Overshadowing impact. • Impact on value of property. • Noise impacts from function centre not compatible with residential flat building. • Additional traffic generation and parking issues.
<p>3. (Blacktown Girls and Blacktown Boys high schools) - Lincoln Lawler from Schools Infrastructure NSW 3 - 15 Fifth Avenue, Blacktown</p>	<ul style="list-style-type: none"> • Construction vehicles and delivery vehicles to avoid utilising the local streets surrounding the school during drop-off/pick up including Bessemer Street, Fifth Avenue and Price Street. • Construction management plan does not form part of the application.

7.3 All of these concerns were included in the Statement of Facts and Contentions filed with the Land and Environment Court with the exception of the following, which were not considered grounds of refusal:

- Overshadowing of 24 First Avenue - The architectural plans show that the property will still receive full solar access between 9 am and noon and partial solar access between 1 pm and 3 pm.
- Value of property concerns - not a planning ground.
- Building separation controls - Commercial towers are not required to comply with the building separation controls of the Apartment Design Guidelines.

7.4 All other objections are considered sufficient to warrant refusal on the grounds and have been included in the key issues listed below.

8 Key issues and reasons for refusal

8.1 The proposal fails to exhibit design excellence required by Clause 7.7 of Blacktown Local Environment Plan 2015

- 8.1.1 The proposed development is unacceptable with regard to design quality and fails to adequately engage and comply with relevant provisions of Blacktown Local Environment Plan 2015, the Blacktown Development Control Plan 2015 and other applicable planning standards and guidelines.
- 8.1.2 Design excellence, which is contained in Clause 7.7 of Blacktown Local Environment Plan 2015 states 'development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence'. The clause outlines a number of matters that must be considered such as design, materials, quality and amenity of public domain, view corridors, solar access, streetscape, street frontage heights, wind, reflectivity, ecologically sustainable development etc. The applicant has not addressed these requires in the Statement of Environmental Effects for the proposal and therefore Council considers this development does not 'exhibit design excellence'.
- 8.1.3 The applicant has not adequately responded to the local context of the site, particularly in regard to the existing adjacent residential units to the east. As a result, the bulk, setback and tower proportions will produce an unacceptable design outcome.
- 8.1.4 The western elevation for the proposed development does not adequately address climate considerations for the site or the orientation of the site having regard to those considerations. Design features for the proposed development such as a

façade system (including aspects such as performance, shade devices and the like) are inadequate for this purpose. For example, external shading would enhance the visual appearance of the development whilst also providing a level of protection from the harsh western Sydney sun.

- 8.1.5 The plans do not provide adequate details of building setbacks, and so it is not possible to determine whether setbacks are appropriate.
- 8.1.6 The plans do not provide adequate details of the proposed building façade, and the information provided does not demonstrate sufficient integrity of the façade design throughout the building.
- 8.1.7 The architectural roof treatment and expression are unacceptable, especially having regard to the location of the site on a corner block with frontage to a significant street in the locality.
- 8.1.8 The design of the proposed development, including the location of the vehicular entry, does not provide for adequate activation of the building frontages and the street.
- 8.1.9 The design of the proposed car park entries, which are visible to the public, is deficient, including in relation to the quality of materials proposed, and the quality and integration of lighting proposed (including where visible from the street).
- 8.1.10 The plans do not demonstrate that all building plant, equipment and services (including air conditioning systems, basement vents, and substations, fire safety plant and equipment and downpipes) are appropriately located and treated, having regard to visual, acoustic and odour impacts.

8.2 The applicants Clause 4.6 variation request on the maximum building height does not provide satisfactory justification

- 8.2.1 The site is subject to a maximum allowable building height of 80 m under Clause 4.3 of Blacktown Local Environment Plan 2015.
- 8.2.2 The proposed development includes a building height of 82.88 m; a variation of 3.6%. The development over the height limit is to facilitate lift overruns and architectural features.
- 8.2.3 The applicant's Clause 4.6 request seeks an exception from the height limit. Whilst Council has in the past approved variation for similar reasons, the applicant has not provided:
 - A response to the objectives of the MU1 Mixed Use zone and the objectives of the building height control under Blacktown Local Environment Plan 2015.
 - A clear justification for the requested exception from the height limit other than additional yield for the applicant. This is not considered a satisfactory justification for the proposed additional 2.88 m in height. The purpose of the parapets over the 80m height limit appears to provide a structure to place the applicant's signage on.
- 8.2.4 The matters below are required to be satisfactorily addressed in the applicant's Clause 4.6 request, and it is evident that these have not been satisfied:
 - Consideration as to whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a)).
 - Consideration of sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

- The objectives of the standard are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii)).
- The objectives of the zoning are achieved notwithstanding non-compliance with the standard (Clause 4.6(4)(a)(ii)).
- The concurrence of the Secretary has been obtained (Clause 4.6(4)(b)).

8.3 The proposal fails to provide adequate parking and assessment of traffic

- 8.3.1 The commercial/office premises car parking rates are '1 space per 30 m² gross floor area, plus 1 space per 2,000 m² gross floor area for courier/service vehicles' under section 5.2, Part D of the Blacktown Development Control Plan.
- 8.3.2 The applicant has proposed the car parking rate of 1 space per 100 m² gross floor area for the office space. The traffic report accompanying the DA (dated 19 August 2022, prepared by Varga Traffic Planning) (Traffic Report) states that this rate is sourced from Section 6, Part A of the Blacktown Development Control Plan 2015, but this is not the applicable control.
- 8.3.3 The proposed development provides significantly less parking than required under Council's car parking rates.
- 8.3.4 Section 4.6, Part D of Blacktown Development Control Plan 2015 requires that 'parking areas should have a separate entrance and exit where more than 50 car spaces are provided or where the development generates a high turnover of traffic (i.e. a supermarket or drive-in service facility)'. The proposed development does not comply with this provision as it only has 1 point of entrance and exit. This gives rise to concerns about safety and traffic congestion to warrant refusal of the application.
- 8.3.5 The proposal should be refused as the assessment of traffic and parking impacts is inadequate and, to the extent that it has been provided, it indicates that the traffic and parking impacts of the proposed development are unsatisfactory.
- The Traffic report estimates the traffic generated from the development but has not reliably identified the existing traffic situation around the site, that it is not possible to undertake a reliable assessment for most kinds of traffic impacts.
 - There is no consideration in the Traffic report or elsewhere in the proposal (such as the construction management plan) of the impacts that construction-related parking will have on the area or how these parking demands will be accommodated around the site during the construction phase.
 - There is insufficient capacity on the site (especially during excavation and rebuilding to ground level) and around the site to accommodate the likely increase in demand for parking during the construction phase.

8.4 Insufficient evidence on contamination has been provided to determine if the site is suitable for the proposed development

- 8.4.1 The Preliminary site investigation report accompanying the application (dated 8 August 2022, Report No. NE1392, prepared by Geotesta) (Contamination report) concludes that there is a 'medium risk of soil contamination' due to the significant data gap in the contamination investigation.
- 8.4.2 The Contamination report recommends a Data gap contamination assessment post demolition. However, this is considered inadequate as the consultant must be able to conclude from their finding that the site is suitable or can be made suitable for the proposed development.

- 8.4.3 On this basis the proposal does not include sufficient evidence to determine if the site is suitable for the proposed development under Clause 4.6(1) of the State Environmental Planning Policy (Resilience and Hazards) 2021.

8.5 Land owner's consent and concurrence from Sydney Trains has not been provided

- 8.5.1 Section 2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021 provides that a consent authority must not grant consent to development to without the concurrence of the rail authority for the rail corridor to which that development relates if the development involves the penetration of ground to a depth of at least 2 metres below ground level (existing) or land within 25 metres (measured horizontally) of a rail corridor.
- 8.5.2 The proposed development involves the construction of an underground stormwater drainage pipe within 25 metres of the rail corridor owned by Transport Asset Holding Corporation (TAHE), represented by Sydney Trains as the relevant rail authority.
- 8.5.3 The response from Sydney Trains (on its own behalf and on behalf of TAHE) to the application indicates that neither land owner's consent nor concurrence has been granted to date.

8.6 The proposal fails to provide adequate information for WaterNSW to assess the integrated referral as required

- 8.6.1 The proposal triggers integrated development under Clause 4.47 of Environmental Planning and Assessment Act 1979 and General terms of approval are required to be provided under Clause 90(2) of Water Management Act 2000 from WaterNSW due to interface with water supply from basement and construction works proposed.
- 8.6.2 General terms of approval have not been provided as WaterNSW requires the following information to assess the application:
- Confirmation of the proposed basement construction design, being either tanked (fully watertight) or drained (requiring permanent ongoing dewatering).
 - If a tanked basement design is proposed, the following information is requested.
 - Volume of water to be extracted annually if available.
 - Duration of the water take for dewatering if available.
 - Method of measuring the water take and recording.
 - If a drained basement design is proposed, WaterNSW and the Department of Planning and Environment - Water will require additional modelled data to support a hydrogeological review and assessment. A Geotechnical report (or equivalent) will need to be provided and satisfy requirements detailed in the below Table 1 Modelling Inputs. The applicant is to also mark in Table 1 – Modelling the document name, version and page number that addresses each of the required assessment items and submit this information.

8.7 The proposal fails to provide adequate provision or assessment drainage and engineering matters

- 8.7.1 The following matters were raised by our Drainage section:
- The kerb pit connection is deficient as the pit surface level is higher than the Onsite Stormwater Detention tank top of level.

- The plans do not clearly show how the water conservation controls are satisfied, including site water demands, provision for rainwater (including the nature and size of tanks to be provided) and have not satisfied water sensitive urban design matters.
- There is inadequate provision for the operation of onsite detention measures.
- Roof and podium drainage plans have not been provided.
- The plans of the inspection zone mentioned above for the onsite stormwater detention cover do not show sufficient headroom for access and maintenance.

8.7.2 The following matters raised by our Development Engineering Section:

- The proposal is insufficient as the following has not been provided; cut and fill plan, details of how fill would be sourced, how its contamination free status would be assured, and where cut would be disposed of.

8.8 The signage proposed on the parapets is not considered to be keeping with the character of the area

8.8.1 The signage on the parapet of all 4 elevations is not considered to be in keeping with the character of the area, considered excessive and not aligning with desired future character of the area.

8.8.2 It is considered that the signage should only be displayed on 1 elevation.

8.9 The application fails to provide sufficient information to enable a full and complete assessment of this proposal

8.9.1 There is insufficient evidence to show that the site is suitable in regard to geotechnical and salinity matters.

- There are significant deficiencies in the Preliminary geotechnical site investigation report that accompanied the application (dated 9 August 2022, report no. NE1392, prepared by Geotesta), including:
 - Reference to the development being for an apartment development/building, which is clearly not the case for the proposed development.
 - Assumptions that the proposed development will have 1 basement level, although the application proposes 6 basement levels.
- The geotechnical assessment involved drilling 3 boreholes to a depth of 4 m below the bulk excavation level, which is not sufficient for assessing the 6 levels of basement proposed.
- There is limited assessment of the expected vibration impacts on adjoining sites, from drilling the proposed basement and no mitigation measures have been proposed.
- The geotechnical report concludes that significant additional investigation is required for a proper assessment of geotechnical and salinity issues for the proposed development, including deeper excavation and groundwater assessment.
- The above matters, and any other outstanding assessment matters, should have been addressed in the application.

8.9.2 The acoustic assessment has not satisfactorily addressed the acoustic impacts of the proposed development.

- The Acoustic assessment accompanying the application (dated 23 May 2022, Report No. 220200, prepared by Pulse White Noise Acoustics) included a number of inadequacies including:
 - The description of proposed development under section 1.2 of the Acoustic report is incorrect, as it refers to 5 levels of basement parking, although the proposal is for 6 levels, and it refers to an incorrect number of car spaces.
 - It does not consider the acoustic impacts associated with the recreational facility and chiller room on level 3 of the proposed development.
 - The architectural plans used for the Acoustic report are dated July 2021 but the plans provided with the application are dated 17 August 2022.
 - The Acoustic Report fails to assess the construction noise from the proposed development.
 - The Acoustic report has not considered vibration impacts on neighbouring properties, and no mitigation measures have been proposed.
- 8.9.3 The Survey Plan accompanying the application (dated 9 December 2021, prepared by Bathla Group) does not state what the site area is.
- 8.9.4 There is insufficient information to ascertain whether the estimated cost of works is accurate.
- The cost of works proposed in relation to office space per square metre is less than outlined in Councils 'Guide to estimating the value of development'. The document is only a guide and does not provide all elements of development, but it does outline a rate for offices (4+ storeys) being \$2,700/m².
 - The applicant's Quantity Surveyor's report states the proposed works are valued at \$37,059,347 but does not include a detailed list of works and associated costs as can be seen in the following graphic.

30 First Ave. Blacktown

Job Name : <u>30 FIRST AVE BLACKTOWN</u>		Job Description				
Client's Name : <u>UPG</u>		Shops, Function centre and Offices with basement parking				
Item No.	Item Description	Quantity	Unit	Rate	Mark Up %	Amount
Trade : <u>8 30 First Avenue, Blacktown</u>						
1	Site area	1,240.00	m2			
2	Demolish existing buildings - separate DA		Note			
3	Basement parking levels 1-6	6,900.00	m2	700.00		4,830,000.00
4	Shops - Ground floor : Fitout excluded	990.00	m2	1,200.00		1,188,000.00
5	Function Centre - Levels 1&2 : Fitout excluded	2,057.00	m2	1,000.00		2,057,000.00
6	Offices - Levels 3-20 : Fitout excluded	15,496.00	m2	1,600.00		24,793,600.00
7	Consultants' fees	1.00	Item	821,715.00		821,715.00
8	Construction Cost					<u>33,690,315.00</u>
9	GST	1.00	Item	3,369,031.50		3,369,031.50
10	Development Cost					<u>37,059,346.50</u>
<u>30 First Avenue, Blacktown</u>						Total : <u>37,059,346.50</u>

Extract 1: page 2 of quantity surveyor's report accompanying the DA

- 8.9.5 The applicant has failed to provide a feasibility assessment of the proposed development.

- During the course of the panel meeting a feasibility report/economic development analysis was requested to demonstrate viability of the proposal and that vacant space will not result due to lack of demand.
 - A feasibility assessment is needed to determine if the use of the site for the proposed development is viable.
 - The assessment must investigate adaptive reuse options whilst taking into account the provisions of the National Construction Code, for example floor to ceiling heights for adaptive reuse.
- 8.9.6 The application provides insufficient assessment and makes inadequate provision for tree removal and planting.
- The applicant has not applied for tree removal on the NSW Planning Portal 'DA Form' and the Statement of Environmental Effects does not address tree removal either.
 - The Preliminary Arboricultural assessment by Monaco Designs PL 3 May 2022 assesses the species, health, general condition and retention value of the trees located at 30 First Street, Blacktown. However, it does not provide an assessment of the proposed development and so is inadequate. An Arboricultural impact assessment is required for the proposed development.
 - The material provided with the application does not include information on:
 - Any substantial assessment of the impact of the proposed tree removal.
 - How trees that are not proposed to be removed would be protected during construction.
 - What landscaping will be provided following completion of construction or how any such landscaping would be maintained.
- 8.9.7 Insufficient and inconsistent information has been provided in relation to waste management.
- There is an inconsistency in regard to the type of waste vehicle that can be catered for in the proposed development. As a consequence, the assessment of turning and movement pathways and parking space for waste vehicles is deficient:
 - The Waste management plan (dated August 2022, prepared by BRP Consulting) refers to 10.5 m HRV length.
 - The Traffic and Parking Assessment Report (dated 19 August 2022, prepared by Varga Traffic Planning) refers to 8.8 m MRV length.
 - Waste collection configuration is not proposed to be contained wholly within the site, and there is inadequate provision for waste collection vehicle movements on site.
- 8.9.8 The Statement of Environmental Effects refers to the wrong zoning.
- The Statement of Environmental Effects accompanying the application (dated April 2023, prepared by Universal Property Group) references B4 Mixed Use zoning. However, the Blacktown Local Environmental Plan was amended on 26 April 2023 to change the zoning of the site to MU1 Mixed Use. An assessment against the MU1 Mixed Use zone objectives is required.

9 Internal referrals

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

Section	Comments
Engineering	Objection, included in key issues.
Traffic	Objection, included in key issues.
Waste	No comments provided.
EHU	No objections, conditions provided.
Drainage	Objection, included in key issues.
Heritage	No objection.
Biodiversity	No objections.
City Architect	Objection, included in key issues.
Civil Maintenance	No objections, conditions provided.
Open Space	Objection, included in key issues.
Building	No objections, conditions provided.

10 External referrals

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

Authority	Comments
Jemena	Referral rejected.
Transport for NSW	<p>Objected, comments provided:</p> <p>Transport for NSW provided the following comments to Council, to be addressed by the applicant:</p> <ul style="list-style-type: none"> The Traffic report estimated the traffic generation based on the rate of trips per parking spaces. However, there is no further information and data to support this assumption. The applicant should provide detailed information and data for the traffic generation estimation for review. The site is in close proximity to the Blacktown Railway Station and public transport interchange. Excess parking supply would result in increased traffic generation and impacts on surrounding road network. Transport for NSW recommends Council to consider reduced parking provision for the subject site to encourage sustainable transport.
Department of Planning and Environment - Water	Aquifer interference - referral rejected.
Sydney Trains	Objected, comments provided:

Authority	Comments
	<ul style="list-style-type: none"> Property Matters and Land Owners Consent A Stormwater Drainage Report is required and must include justification on why the pipe must go into TAHE owned land. The report should also include a Survey Drawing clearly identifying the proposed drainage infrastructure in relation to TAHE Land. The boundary of TAHE Land should be clearly shown on this Survey. Pending the above, the applicant may be requested to obtain written Land Owners Consent from TAHE, or alternatively lodge amended plans showing no reliance, use or works of or within TAHE land.
Police	Comments provided, these can be included as conditions.
Ampol	Outstanding.
Fire and Rescue	Outstanding.
WaterNSW	<p>Objected, comments provided:</p> <ul style="list-style-type: none"> Confirmation of the proposed basement construction design, being either tanked (fully watertight) or drained (requiring permanent ongoing dewatering). If a tanked basement design is proposed, the following information is requested: Volume of water to be extracted annually if available. Duration of the water take for dewatering if available. Method of measuring the water take and recording. If a drained basement design is proposed, WaterNSW and the Department of Planning and Environment - Water (DPE) will require additional modelled data to support a hydrogeological review and assessment. A Geotechnical report (or equivalent) will need to be provided and satisfy requirements detailed in the below Table 1 Modelling Inputs. The applicant is to also mark in Table 1 – Modelling the document name, version and page number that addresses each of the required assessment items and submit this information.
Endeavour Energy	Comments provided, can be included as conditions of consent.

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is not considered to be satisfactory. It is considered that the likely impacts of the development have not been satisfactorily addressed and that the proposal is not in the public interest. The site is not considered suitable for the proposed development.

12 Disclosure of political donations and gifts

- 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

- 1 Refuse Development Application DA-23-00337 based on the following grounds:
- The proposal fails to satisfy Clause 4.47 of Environmental Planning and Assessment Act 1979 and Clause 90(2) of Water Management Act 2000 as General Terms of Approval have not been provided by WaterNSW [Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979].
 - The proposal fails to satisfy Clause 4.13 of Environmental Planning and Assessment Act 1979 and Clause 2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021 as concurrence has not been provided from Sydney Trains [Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979].
 - The proposal does not comply with Clause 4.6 of Chapter 4 of the Resilience and Hazard SEPP 2021 as there is insufficient information to confirm that the site is suitable or can be made suitable for this development [Section 4.15(1)(a)(i) and S4.15(1)(b) of the Environmental Planning and Assessment Act 1979].
 - The proposal fails to satisfy design excellence under Clause 7.7 and exceptions to development standards Clause 4.6 under Blacktown Local Environment Plan 2015 [Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979].
 - Insufficient information has been submitted as required under Clause 36 of the Environmental Planning and Assessment Regulations 2021, as the applicant has failed to provide the information requested in Council's SOFAC dated 4 August 2023 and 30 November 2022 [Section 4.15 (1)(a)(iv) of Environmental Planning and Assessment Act 1979].
 - The proposal does not comply Section 4.6 Vehicular Access and Circulation, Section 5.2 Car Parking or Section 5.3.1 Residential/Mixed Use Development of Part D of Blacktown Development Control Plan 2015 [Section 4.15(a)(iii) of the Environmental Planning and Assessment Act 1979].
 - Council received 3 submissions as a result of the public notification of the application, which raised relevant matters such inconsistencies between documents, costs of works, acoustics, noise, vibration, waste management, site contamination, geotechnical, parking and traffic. The applicant has failed to adequately address the matters raised in this submission [Section 4.15 (1)(d) of EP&A Act 1979].
 - The proposal will result in a negative impact on the natural, built, social and economic environments within the locality of the site due to the proposed height variation, design, car parking, traffic and parking impacts, noise, vibration, site

contamination, geotechnical, waste management, tree removal, drainage and feasibility of the proposal [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].

- i The site is not suitable for the development as insufficient and inadequate information has been provided on the variation to height, design, car parking, traffic measures, noise assessment, vibration, site contamination, geotechnical, waste management, tree removal and drainage, and a feasibility study has not been provided to determine suitability [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].
 - j For the reasons outlined above, granting of consent to the development in its current form is not in the public interest [Section 4.15(1)(e) of the EP&A Act 1979].
- 2 Council officers notify the applicant and submitters of the Panel's decision.
 - 3 Council continue to defend the deemed refusal appeal in the Land and Environment Court.

14 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.



Olivia Betts
Senior Town Planner



Judith Portelli
Manager Development Assessment



Peter Conroy
Director City Planning and Development