

## Report to Sydney West Joint Regional Planning Panel

<b>JRPP No:</b>	<b>2014SYW027</b>
<b>DA No:</b>	<b>JRPP-14-91</b>
<b>Local Government Area:</b>	<b>Blacktown</b>
<b>Proposed Development:</b>	<b>Two lot subdivision and the staged construction of 4 x 4 storey Residential Flat Buildings and concurrent strata subdivision</b>
<b>Development Type:</b>	<b>"Regional Development" – Capital Investment Value &gt;\$20 million</b>
<b>Lodgement Date:</b>	<b>23 January 2014</b>
<b>Land/Address:</b>	<b>Lot 209 DP 208203, H/N 9 Terry Road, Rouse Hill</b>
<b>Land Zoning:</b>	<b>R3 Medium Density Residential and RE1 Public Recreation pursuant to State Environmental Planning Policy (Sydney Region Growth Centres) 2006</b>
<b>Applicant:</b>	<b>Winter Properties Pty Ltd</b>
<b>Capital Investment Value:</b>	<b>\$57.6 million</b>
<b>Report Author:</b>	<b>Melissa Parnis, Assistant Team Leader, Planning</b>
<b>Recommendation:</b>	<b>Approval</b>
<b>Instructing Officers:</b>	<b>Judith Portelli, Manager Development Services &amp; Administration and Glennys James, Director City Strategy &amp; Development</b>

## ASSESSMENT REPORT

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### Attachments

- Attachment 1 – Council Development Assessment Report on the Development Application as considered by the JRPP on 30 October 2014 and DA Plans
- Attachment 2 – Department of Planning and Environment letter
- Attachment 3 – Conditions of consent

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## 1 Executive summary

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- 1.1 On 30 October 2014, the Sydney West Joint Regional Planning Panel (JRPP) considered a Development Application (DA) for the staged construction 4 x 4 storey residential flat buildings and concurrent strata subdivision at the site.
- 1.2 The Panel deferred its determination of the DA to seek a response from the Department of Planning and Environment regarding whether this site continues to be required as a school site as shown on the Area 20 Indicative Layout Plan (ILP).
- 1.3 Since that meeting, a response from the Department of Planning and Environment has been received. See **Attachment 2** for the Department's response.
- 1.4 Accordingly, the application is referred back to the Sydney West JRPP for further consideration and determination.

## 2 Background

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- 2.1 The subject Development Application (DA) has been lodged by Winter Property Group Pty Ltd for the staged subdivision and construction of a 4 x 4 storey residential flat buildings at the subject property. The proposed development has a Capital Investment Value of \$57.6 million.
- 2.2 The DA proposed 4 residential flat buildings, each 4 storeys in height. A total of 256 residential units, including 29 x 1 bedroom units, 186 x 2 bedroom units and 41 x 3 bedroom units are proposed.
- 2.3 Following assessment and public notification of the proposal, a detailed report on the application was forwarded to the Sydney West JRPP for consideration at its meeting of 23 October 2014. The report concluded that the proposal is considered to be satisfactory with regard to relevant matters such as built form, heritage, access, stormwater drainage, ESD, site contamination, salinity, social and economic impacts and the like, subject to the imposition of suitable conditions of consent. The DA sought a clause 4.6 variation to the maximum building height of up to 550mm, which Council officers considered to be satisfactory.
- 2.4 The proposal was considered to be satisfactory in terms of the relevant matters for consideration pursuant to Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979, and therefore was recommended for approval subject to conditions. A copy of Council's Development Assessment Report, the Development Application plans and the original "draft" conditions of consent are included at **Attachment 1**.
- 2.5 At the JRPP meeting, the Panel considered the Development Assessment Report as well as Council's draft conditions. After careful consideration, the JRPP resolved the following:

*"The Panel resolves to defer this application, although the Panel considers that the application has merit and the conditions would be appropriate if approved. However the Panel seeks a response from the Department of Planning & Environment relating to Council's referral letter of 29 February 2014 and in particular a response as to whether this site continues to be required as a school site as shown on the Indicative Layout Plan for this Area 20 Precinct under SEPP (Sydney Region Growth Centres) 2006 and advice of the Department's position concerning this alternative proposal for medium density housing."...*

### 3 Department of Planning and Environment comments

- 3.1 The Area 20 Indicative Layout Plan identifies the site as a “potential school site”. See figure 1 below. Notwithstanding this, the site is zoned R3 Medium Density Residential pursuant to State Environmental Planning Policy (Sydney Region Growth Centres) 2006. Residential flat buildings are permissible within the R3 zone.

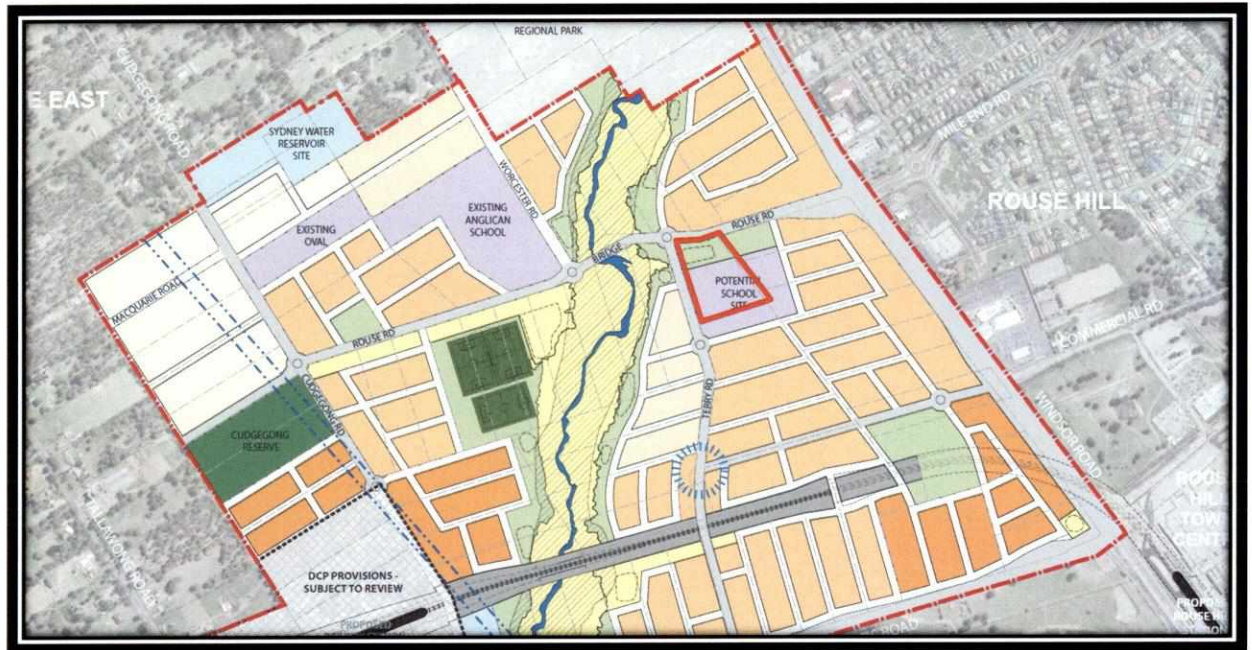


Figure 1. Extract from Area 20 Indicative Layout Plan (DoP, 2011)

- 3.2 Consideration should be given to the weight of the ILP. The ILP is given power through the Blacktown City Council Growth Centre Precincts Development Control Plan. Whilst the ILP identifies the site as a “potential school site”, Section 74BA (1) – Purpose and status of development control plans of the Environmental Planning and Assessment Act 1979 states:

*“(1) The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:*

- (a) giving effect to the aims of any environmental planning instrument that applies to the development,*
- (b) facilitating development that is permissible under any such instrument,*
- (c) achieving the objectives of land zones under any such instrument.*

*The provisions of a development control plan made for that purpose are not statutory requirements."*

- 3.3 Therefore, a DCP cannot prohibit a land use that is permissible under an environmental planning instrument. The statutory requirement for permissible land uses is State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

- 3.4 The Department of Planning and Environment has now provided advice to the Sydney West JRPP, stating:

*"The Indicative Layout Plan (which is part of the Development Control Plan) identifies the site as a potential school, but the site was not zoned specifically for a school, on advice from the Department of Education and Communities.*

*The Panel's request for advice on whether the subject site is required for a school is best answered by the Department of Education and Communities. Both Blacktown City Council and the Department of Planning and Environment have consulted with the Department of Education and Communities in relation to the proposed residential development. I understand it is the position of the Department of Education and Communities that it has no intention to acquire the site or develop a school on the land in the short term because other schools in the area have capacity for growth".*

- 3.5 It is evident from the Department of Planning and Environment's advice that it is the Department of Education and Communities' role in guiding the acquisition of the property. Both Council and the Department of Planning and Environment, as well as the applicant, have given the Department of Education and Communities the opportunity to comment on the application. The Department of Education and Communities has advised that the site is not required at this time and may not be required for 5 - 10 years. Council officers consider it unreasonable to refuse the application on these grounds on the basis that the development of the land cannot be precluded and that the Department of Education and Communities does not categorically identify the site for future acquisition.
- 3.6 Furthermore, should a school be required within the vicinity in the future, *State Environmental Planning Policy (Infrastructure) 2007* permits educational establishments in all residential zones. Therefore, the surrounding zoning does not preclude the Department of Education and Communities from acquiring another site in the area should a school site be required in the future.

## 4 General comments

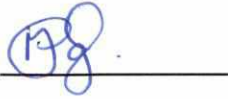
- 4.1 In accordance with the Panel's resolution of 30 October 2013, advice from the Department of Planning and Environment has been received. **Attachment 2** provides the Department's response.
- 4.2 The development has been assessed against the matters for consideration listed in Section 79C of the Environmental Planning & Assessment Act 1979 and is considered to be satisfactory. It is considered that likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. Further, the subject site is considered suitable for the proposed development.
- 4.3 The proposal is consistent with the objectives of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the R3 Medium Density Residential zone and is permissible in the zone with consent.

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## 5 Recommendation

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- 5.1 The Development Application be approved by the Sydney West Joint Regional Planning Panel, subject to the conditions held at **Attachment 3**.
- 5.2 The applicant be advised of the Sydney West Joint Regional Planning Panel's decision.



MELISSA PARNIS

ASSISTANT TEAM LEADER, PLANNING APPROVALS (NORTH)



JUDITH PORTELLI

MANAGER DEVELOPMENT SERVICES AND ADMINISTRATION



GLENNYS JAMES

DIRECTOR CITY STRATEGY AND DEVELOPMENT