

Report to Sydney West Joint Regional Planning Panel

JRPP No.	2014SYW109DA
DA No:	JRPP-14-1593
Proposed Development:	5 x Residential Flat Buildings
Development Type:	Capital Investment Value > \$20 million
Lodgement Date:	15 August 2014
Land/Address:	Lot 4 DP 135883, 828 Windsor Road, Rouse Hill
Land Zoning:	R3 Medium Density Residential
Capital Investment Value of Approved Development:	\$61,276,000
Applicant:	Urbanlink Architecture Pty Ltd
Report Author:	Melissa Parnis, Assistant Team Leader, Projects
Instructing Officers:	Judith Portelli, Manager Development Assessment Glennys James, Director Design and Development
Date Submitted to JRPP:	8 July 2015
Date Considered by JRPP:	22 July 2015



Figure 1. Photomontage (Urbanlink, 2015)

ASSESSMENT REPORT

CONTENTS

1.	Summary	3
2.	Location	4
3.	Site description	6
4.	Background.....	7
5.	The proposal.....	8
6.	Planning controls.....	10
7.	External referrals.....	12
8.	Internal referrals.....	13
9.	Key issues.....	13
10.	Public comment	17
11.	Section 79C consideration	19
12.	Conclusion	19
13.	Recommendation.....	19

FIGURES

Figure 1	Photomontage (Urbanlink, 2015).....	1
Figure 2	Location map (Google maps, 2015)	5
Figure 3	Extract from Area 20 Indicative Layout Plan (DoPE, 2011)	5
Figure 4	Nearmap captured 5 May 2015.....	6
Figure 5	Zoning extract (BCC, 2015).....	7
Figure 6	Copy of subdivision plan (Craig and Rhodes, 2014).....	8

ATTACHMENTS

Attachment 1	– Draft conditions of consent
Attachment 2	– Applicant's Clause 4.6 Exception to development standards written request
Attachment 3	– Photomontage of development
Attachment 4	– Development application plans
Attachment 5	– Assessment of compliance with SEPP 65 design principles
Attachment 6	– Assessment of compliance with Residential Flat Design Code
Attachment 7	– Assessment of compliance with State Environmental Planning Policy (Sydney Region Growth Centres) 2006
Attachment 8	– Assessment of compliance with Blacktown City Council Growth Centre Precincts Development Control Plan
Attachment 9	– Section 79C consideration

1. Summary

- 1.1 Blacktown City Council is in receipt of a Development Application (DA) from Urbanlink Architecture Pty Ltd. The DA seeks approval for the construction of 5 x 4 storey residential flat buildings containing 253 units at 828 Windsor Road, Rouse Hill.
- 1.2 Temporary access from Windsor Road is proposed and this will be provided until such time as the adjoining properties are developed in accordance with the Area 20 Indicative Layout Plan.
- 1.3 The proposed development constitutes 'regional development' requiring referral to the Joint Regional Planning Panel (JRPP) as it has a capital investment value of \$61.2 million. While Council is responsible for the assessment of the DA, the Sydney West JRPP is the consent authority.
- 1.4 The development is proposed to be located on the portion of the site that is zoned R3 Medium Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP). Residential flat buildings are permissible in the R3 zone with development consent.
- 1.5 A detailed assessment has been undertaken against the provisions of the Growth Centres SEPP and the Blacktown City Council Growth Centre Precincts Development Control Plan (Growth Centres DCP) 2010.
- 1.6 The development complies with the development standards established within the Growth Centres SEPP, with the exception of encroachments to the building height. The Growth Centres SEPP establishes a maximum height limit of 12 m. The proposal has a maximum height of 12.6 m. The development seeks building height variations of between 134 mm and 600 mm at points only. The maximum variation is a 5% variation to the development standard. The point encroachments are a result of the topography of the land. The building design has been stepped with the topography of the land to minimise non-compliances. Further, elements of the buildings are more than 600 mm below the maximum height limit and the average height of the development would be below the maximum height limit. The variations are considered acceptable as they occur at points only and do not generate additional units or any unreasonable solar access or privacy impacts on adjoining properties.
- 1.7 The development complies with the numerical requirements of the Growth Centres DCP, with the exception of setbacks. The Growth Centres DCP requires a minimum front setback of 6 m, but the development proposes a minimum setback of 5 m, which is a direct result of the widening of local roads under DA-14-1591. The proposed variation is considered acceptable as it does not result in an increase in overshadowing or privacy impact on adjoining properties and results in a more desirable traffic management outcome for the area as a whole.
- 1.8 The proposal is consistent with the objectives of State Environmental Planning Policy No. 65 (SEPP No. 65) and satisfactorily achieves the 10 'design quality principles' listed under Part 2 of the SEPP. The application has been assessed against the design guidelines provided within the Residential Flat Design Code (RFDC). The development complies with all of the numerical recommendations of the RFDC. As the DA was lodged on 15 August 2014, the proposal predates Amendment 3 of SEPP No. 65 which was published on 19 June 2015. Therefore, the proposal continues to be assessed under SEPP No. 65 before the amendment.
- 1.9 The proposed development was notified to property owners and occupiers within the locality between 16 September and 30 September 2014. The DA was also advertised in the local newspapers and a sign was erected on site. The Hills Shire Council was also notified of the proposal as the site adjoins its local government area. One submission was received, being from the adjoining site at 822 Windsor Road, and provided

objections based on overshadowing, setback, percentage of single aspect units, bulk and scale, as well as building height variations. The applicant has modified the development to address the concerns of the adjoining site. It is considered that the objections raised do not warrant refusal of the application.

- 1.10 Overall, the development is considered satisfactory with regard to relevant matters such as siting and design, bulk and scale, privacy, access, traffic impacts, parking and stormwater drainage. The proposed development has been assessed against the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, including the suitability of the site and the public interest, and is considered satisfactory.
- 1.11 It is recommended that the proposed development be approved subject to the conditions documented at **Attachment 1** to this report.

2. Location

- 2.1 The site is located within the Area 20 Precinct within the North West Growth Centre as identified by the Growth Centres SEPP.
- 2.2 The site is located within the recently approved subdivision. The location of the site is shown in Figure 2 below. The land immediately surrounding the site is zoned R3 Medium Density Residential, with a building height limit of 12 m.
- 2.3 The site is located on Windsor Road, being an arterial road. The site is located opposite commercial uses, including the Mean Fiddler pub and Rouse Hill Local Centre, and approximately 550 m from the Rouse Hill Regional Centre. The site is also 550 m from the existing T-Way line and the future Rouse Hill train station.
- 2.4 The existing locality is currently characterised by large lot rural residential development, however is currently undergoing transition with a number of subdivisions and residential dwellings approved within the locality.

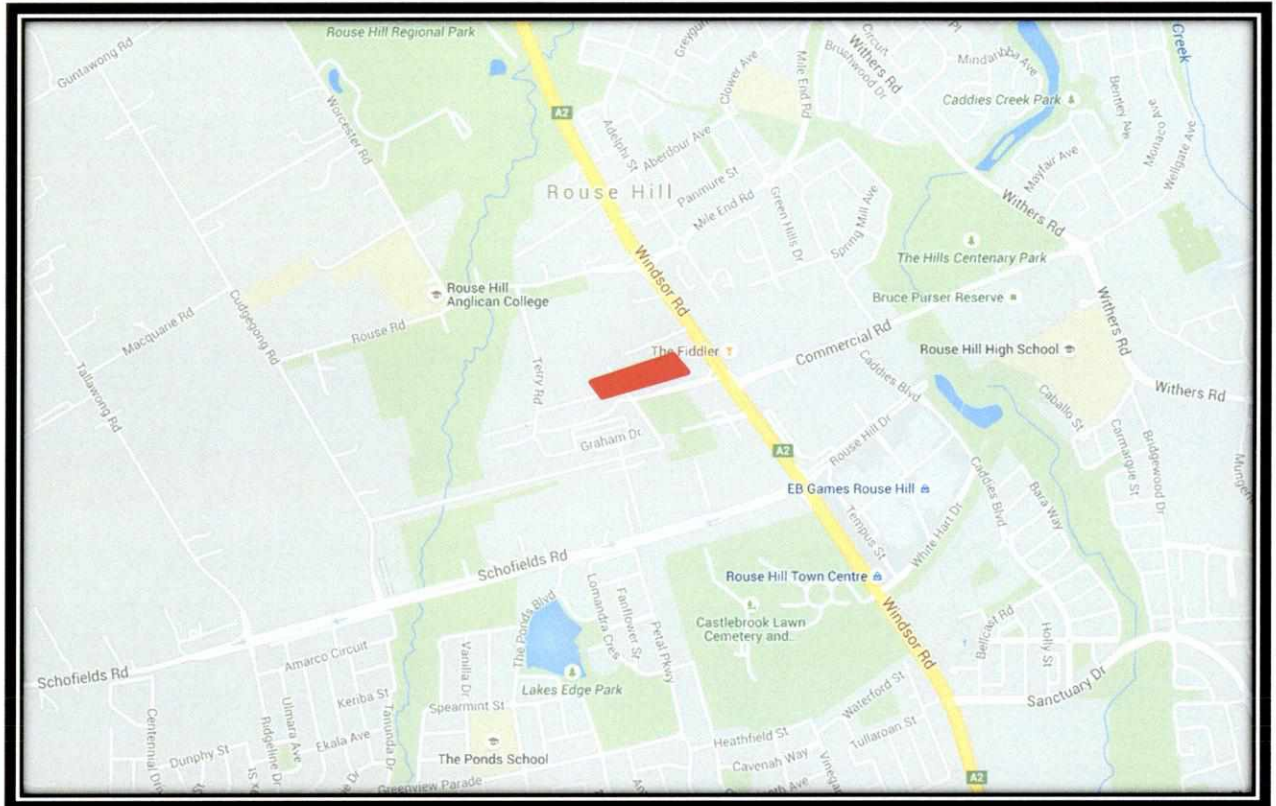


Figure 2. Location map (Google maps, 2015)

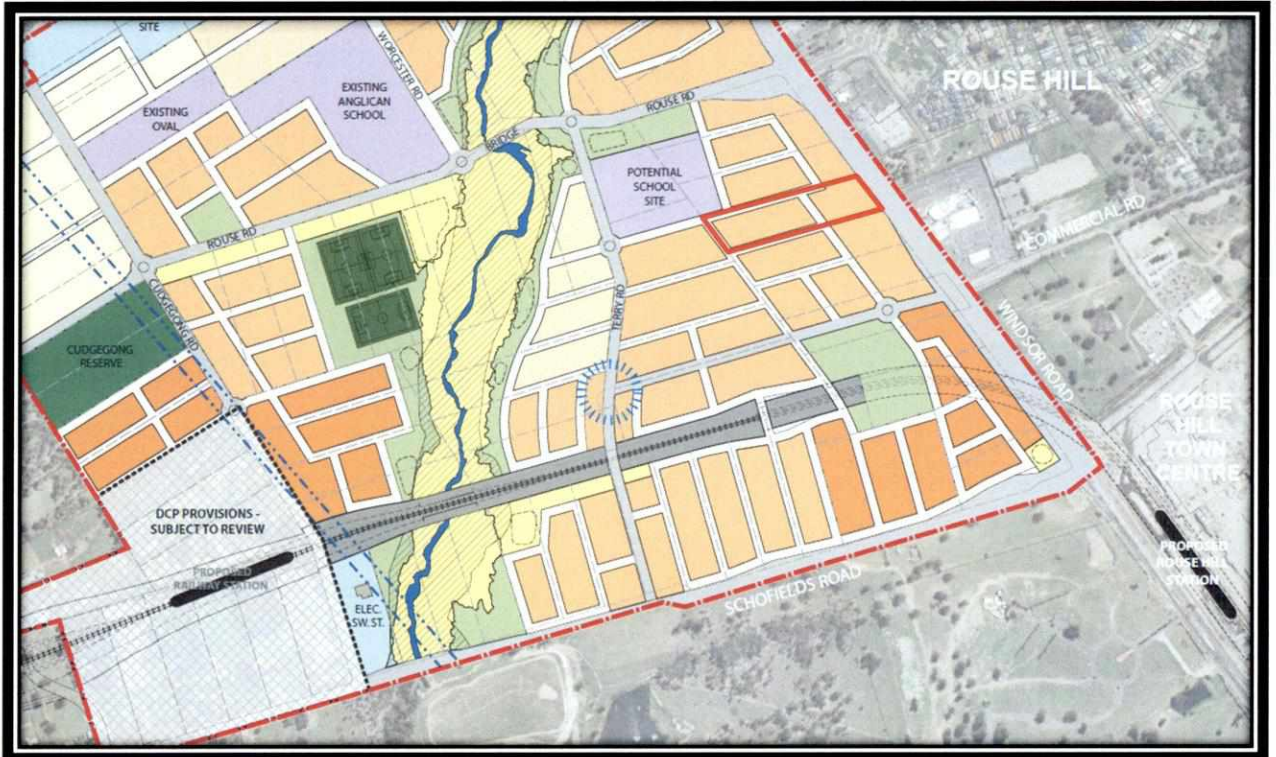


Figure 3. Extract from Area 20 Indicative Layout Plan (DoPE, 2011)

3. Site description

- 3.1 The site is known as Lot 4 DP 135883, 828 Windsor Road, Rouse Hill. On 12 January 2015, Council approved the subdivision of Lot 4 into 2 residue lots and the construction of 18 m wide roads surrounding the development.
- 3.2 The site adjoins Windsor Road to the east. Primary access to the development will be through internal roads. The total site area of the existing lot is 2.035 hectares. After subdivision and the creation of roads, 2 new lots (proposed Lot 1 and proposed Lot 2) will be created with lot sizes of 6,732 sqm and 8,861 sqm respectively. Buildings A, B and C are located on proposed Lot 1 and Buildings D and E are located on proposed Lot 2. The subdivision will be required to be registered with the Land Property Office prior to any Occupation Certificate being issued for the development (**condition 10.25.1**).
- 3.3 The site is vacant land previously used for rural residential purposes.

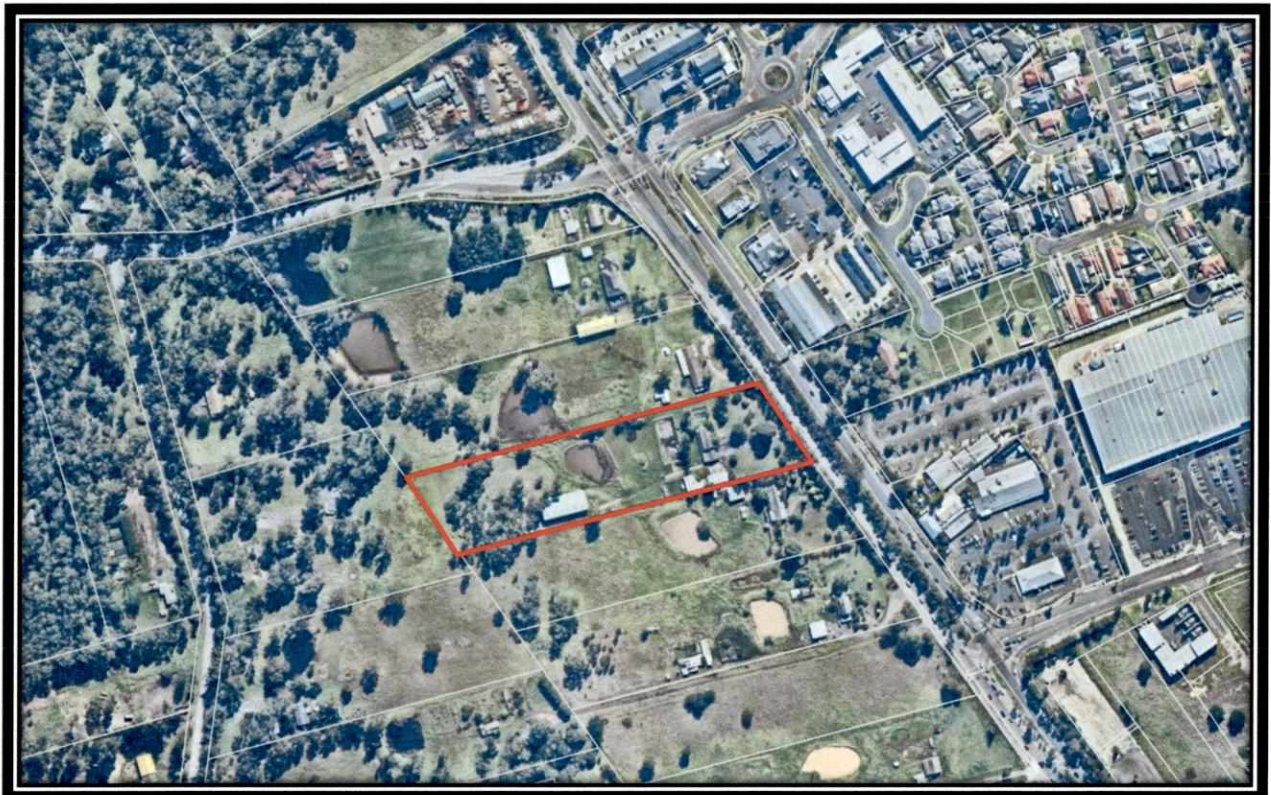


Figure 4. Nearmap captured 5 May 2015

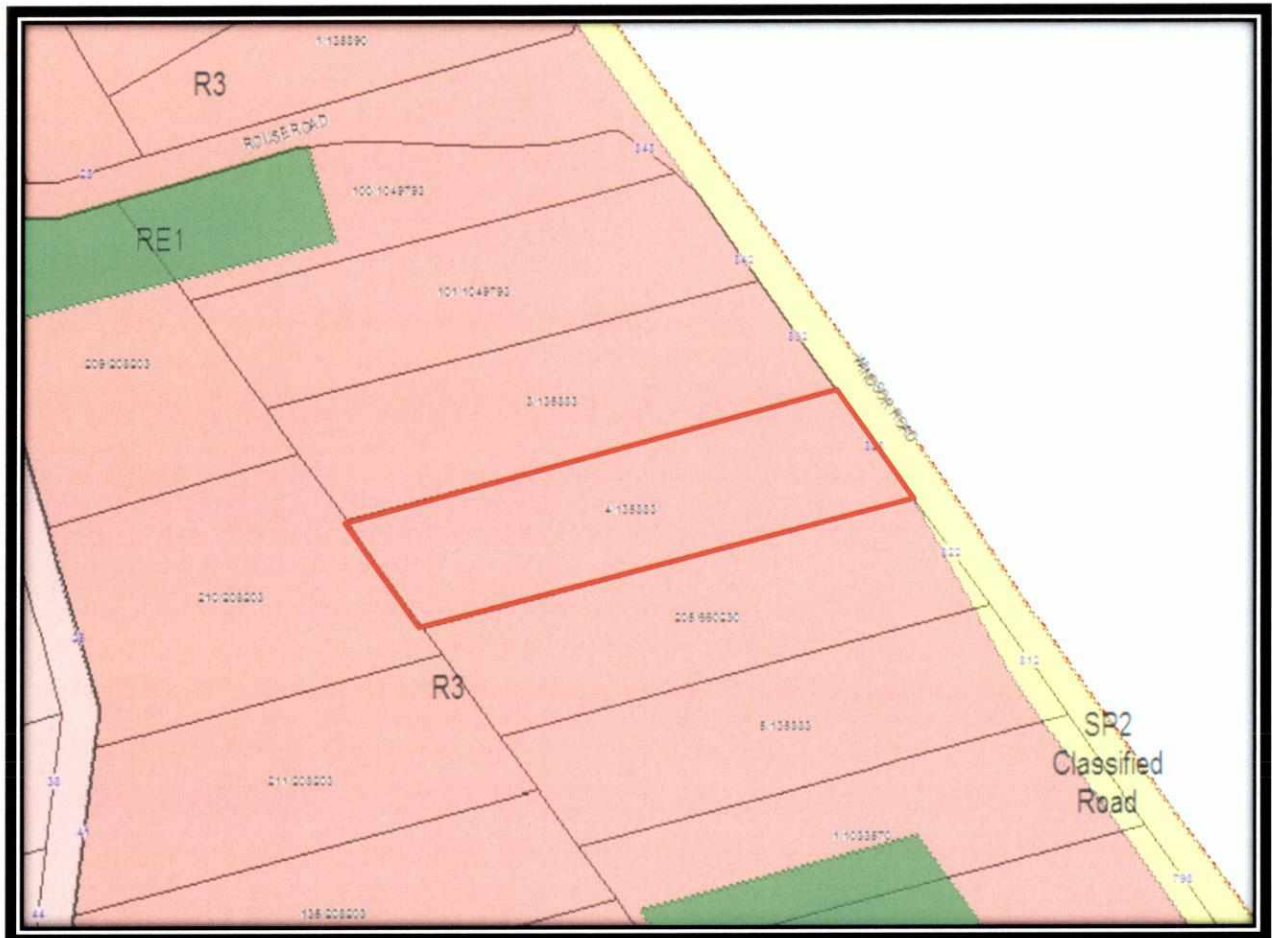


Figure 5. Zoning extract (BCC, 2015)

4. Background

- 4.1 On 21 October 2011, the subject site was rezoned to R3 Medium Density Residential under the provisions of State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The site was rezoned from its previous 1(a) General Rural zoning under Blacktown Local Environmental Plan 1988 to its current zoning as part of the Area 20 Precinct of the North West Growth Centre.
- 4.2 On 12 January 2015, Council approved DA-14-1591 for the subdivision of land. This included tree removal, demolition and road construction to facilitate future development of the lots.

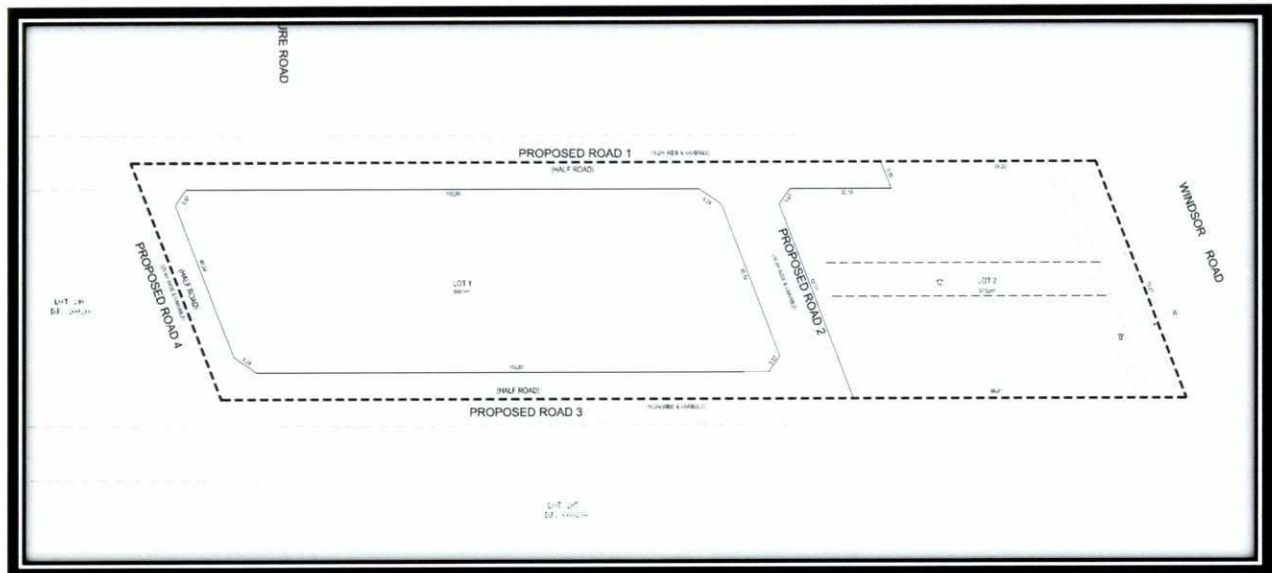


Figure 6. Copy of subdivision plan (Craig and Rhodes, 2014)

5. The proposal

- 5.1 The proposal seeks approval for the construction of 5 residential flat buildings. A total of 253 residential units are proposed, including 38 x 1 bedroom units, 205 x 2 bedroom units and 10 x 3 bedroom units. The following table summarises each stage of the development.

Block	1 bedroom	2 bedroom	3 bedroom	Total units
A	4	49	6	59
B	8	24	0	32
C	0	51	1	52
D	1	44	3	48
E	25	37	0	62
Total	38	205	10	253

- 5.2 The maximum building height of the development is 12.6 m, which exceeds the maximum height limit of 12 m for the site under the Growth Centres SEPP. The variation occurs at points only and on average the development complies with the maximum height limit. The applicant's Clause 4.6 'Exception to development standards' written request is held at **Attachment 2**. Council's assessment of the variation is undertaken in Section 9 below.
- 5.3 The proposal has an FSR of 1.7:1, which complies with the maximum FSR of 1.75:1 which is permissible on the site.
- 5.4 The proposal seeks a variation to the 6 m front and secondary setback, of a reduction to 5 m. The reduction in setbacks is a result of the provision of 18 m wide roads. The development would ordinarily comply with the front setback control, however the site area was subsequently revised at Council's request to provide for 18 m wide roads, to benefit the area from a traffic management perspective. Council's assessment of the variation is undertaken in Section 9 below.
- 5.5 The DA provides for 2 separate basement car parks, each 1 level. The basement provided for unit blocks A, B and C provides 186 car parking spaces. The basement provided for unit blocks D and E provides 135 car parking spaces. A total of 321 car parking spaces are provided as follows:

- 269 resident car parking spaces
- 52 visitor car parking spaces
- 151 bicycle spaces

Each basement car space has been designed so that vehicles can enter and exit in a forward direction. Elevators will provide direct access from the basement carpark area to the residential levels. Each visitor car parking area is centrally located.

- 5.6 The DA proposes temporary access to Windsor Road between unit blocks D and E. The temporary access will be in use until such time as the adjoining blocks have been developed and road access can be provided by the road pattern identified in the Area 20 Indicative Layout Plan. Suitable conditions will be imposed requiring the closure of the temporary access, restoration of the land and its landscape embellishment when the construction of the surrounding road network occurs.
- 5.7 The development proposes 2 vehicle access points to basement car parking off public roads.
- 5.8 The development provides for central communal open space areas at ground level, internally shared amongst all units. The communal open space has a total area of 3,071 sqm. The landscaped areas will be embellished with native planting, hardscape and turfed areas. BBQ areas will be provided as well as outdoor seating areas.
- 5.9 The buildings are designed to incorporate architectural roof features and provide for variation in façade design. The building design incorporates sliding aluminium louvers and glass balustrades. The main finishes of the building façade include a render and paint finish, in 4 principal colours. Photomontages which demonstrate the buildings' colours and finishes are held at **Attachment 3**.
- 5.10 A Design Verification Statement prepared by Ziad Boumelhem of Urbanlink Pty Ltd has been prepared for the development, in accordance with the requirements of SEPP No. 65. The statement identifies that the building massing and facades are articulated to break down the streetscape and create a building identity, while maintaining the surrounding amenity. The building design reflects the 'rules of thumb' established by the Residential Flat Design Code (RFDC). Council officer assessment of the design principles established within SEPP No. 65 is undertaken in Section 9 below.
- 5.11 The Applicant has submitted a Traffic and Parking Assessment prepared by Traffic Solutions Pty Ltd. The report undertakes an assessment of the traffic and parking implications of the proposal, including the temporary vehicle access via a slip lane on Windsor Road.

The report identifies that the proposed development could generate 74 vehicle trips per hour in the peak hour. The report identified that this potential traffic generation can be accommodated by the proposed slip lane (left-in and left-out only) off Windsor Road.

The report undertakes an assessment of the carpark layout in accordance with Australian Standards AS2890.1 and AS2890.6. It is concluded that this development proposal adheres to these standards.

The assessment further concludes that the access driveways proposed to serve the development are suitably located and will provide good sight distance in both directions along the proposed future roads.

- 5.12 Given the site's proximity to Windsor Road, the application has also been supported with an Acoustic Assessment prepared by Acoustic Noise and Vibration Solutions Pty Ltd. The report determined that the building materials to be used and the construction methods to be adopted will ensure the development is built to achieve acceptable

internal noise levels. Noise intrusion levels are to be within the limits adopted by the Building Code of Australia, NSW Road Noise Policy and SEPP (Infrastructure) 2007.

The consultant has undertaken environmental noise monitoring on the site to determine the existing day and evening background noise levels.

The report recommends acoustic seals for windows and sliders, particularly in unit blocks D and E, as well as external walls to be constructed of double skin cavity brick walls and concrete roof or galvanised steel trough roofing, to ensure the required noise reduction levels are achieved by the development.

- 5.13 A full assessment of the proposal is provided in Section 9 and a copy of the development plans is included at **Attachment 4**.

6. Planning controls

- 6.1 The planning controls that relate to the proposed development are as follows:

(a) Environmental Planning and Assessment Act 1979

For an assessment against the Section 79C 'Heads of Consideration' please refer to Section 11 and **Attachment 9** of this report.

(b) State Environmental Planning Policy (State and Regional Development) 2011

SEPP (State and Regional Development) 2011 confers 'Regional Development' as listed in Schedule 4A of the Environmental Planning and Assessment Act 1979 to the Joint Regional Planning Panel (JRPP) for determination. The proposed development constitutes 'Regional Development' requiring referral to a JRPP for determination as the proposed development has a Capital Investment Value of more than \$20 million. While Council is responsible for the assessment of the DA, determination of the DA will be made by the Sydney West Joint Regional Planning Panel.

(c) State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) 2007 ensures that the RMS is made aware of and allowed to comment on development nominated as 'traffic generating development' listed under Schedule 3 of the SEPP. The proposed development seeks to provide access within 90 m of a classified road (Windsor Road). Therefore, the development is classified as traffic generating development to be referred to the RMS under the SEPP. The DA was referred to RMS and the Sydney Regional Development Advisory Committee (SRDAC). The RMS raised no objection to the DA and provided comments for Council consideration. See Section 7 for further details.

In addition, the applicant has submitted an acoustic assessment that identifies measures to be undertaken to ensure compliance with the noise criteria established within Clause 102 of the SEPP. Suitable mitigation measures to the building construction are required to be undertaken, including glazing thickness. A **condition** will be imposed to ensure compliance with the recommendations of the submitted acoustic assessment (**conditions 4.12.1 and 4.12.2**).

(d) State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land aims to 'provide a State wide planning approach to the remediation of contaminated land'. Where contamination is, or may be, present, the SEPP requires a proponent to investigate the site and provide the consent authority with the information to carry out its planning functions. A Preliminary Contamination, Salinity and Geotechnical

Assessment prepared by GeoEnviro Consultancy Pty Ltd has been prepared for the development. Soil sampling was carried out at 38 locations on the site. The laboratory test results confirmed potential contamination on the site. The consultant concludes that the site in general has a low risk of gross ground contamination and is suitable for the proposed residential unit development subject to remediation work. Suitable **conditions** will be imposed to ensure remediation works are carried out prior to the issue of any Construction Certificate for the development and that the site is validated by a suitably qualified person to ensure that the site is suitable for residential development without any limitations (**condition 4.11.1**).

(e) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 (SEPP 65) – *Design Quality of Residential Flat Development* applies to the assessment of DAs for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings. The State Government *Residential Flat Design Code* (RFDC) also applies. The SEPP primarily aims to improve the design quality of residential flat development and states that residential flat development is to 'have regard to the publication *Residential Flat Design Code* (a publication of the Department of Planning, September 2002)'.

As the DA was lodged on 15 August 2014, the proposal predates Amendment 3 of SEPP No. 65 which was published on 19 June 2015. Therefore, the proposal continues to be assessed under SEPP No. 65 and the RFDC before the amendment, in accordance with the savings provisions of the amendment.

As part of the submission requirements for any residential flat development, the DA must provide an explanation of the design in terms of the 10 'design quality principles'. In determining a DA, a consent authority must take into consideration the design quality of the residential flat development when evaluated in accordance with the 10 'design quality principles' set out in Part 2 of the SEPP. The 10 design principles are listed in **Attachment 5**, together with Town Planning comments.

(f) Residential Flat Design Code (RFDC)

In addition to the 10 'design quality principles' listed above, SEPP No. 65 requires that Council must have consideration for the design guidelines provided in the Residential Flat Design Code (RFDC). Council officer assessment of the main numerical guidelines from the RFDC is held at **Attachment 6**.

(g) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Multi-dwelling BASIX Certificates were lodged as part of the Development Application, as well as a NatHERS (Nationwide House Energy Rating Scheme) Assessor Certificate. The BASIX Certificates identify that all buildings achieve the required water, thermal comfort and energy scores required. A suitable **condition** will be imposed requiring compliance with the submitted BASIX Certificates (**condition 2.4.1**).

(h) State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The site is zoned R3 Medium Density Residential under the Growth Centres SEPP. Residential flat buildings are permissible within the R3 zone with consent. Appendix 5 - Area 20 Precinct Plan applies to the subject site as the property is located within the Area 20 Precinct. **Attachment 7** provides a summary the development's compliance with the development standards established within the Growth Centres SEPP. The development complies with the development standards

with the exception of minor encroachments to building height. Section 9 below provides a detailed assessment of the proposal.

(i) **Blacktown City Council Growth Centre Precincts Development Control Plan 2010 (Growth Centres DCP)**

The Growth Centre DCP applies to the site. **Attachment 8** outlines the proposal's compliance with the DCP. The development complies with the development standards, in particular Section 4.6.1 Residential flat buildings and shop top housing, with the exception of variations to the front setbacks. These variations are discussed in detail in Section 9.

7. External referrals

7.1 The DA was referred to the following external authorities as summarised in the table below:

Authority	Comments
Roads and Maritime Services (RMS)	<p>RMS reviewed the DA and provided concurrence for the proposed temporary access off Windsor Road under Section 138 of the <i>Roads Act 1993</i> subject to the imposition of conditions (conditions 2.7.1 to 2.7.1.8).</p> <p>In addition, RMS has the following comments for consideration in the determination of the application:</p> <ol style="list-style-type: none"> 1. The layout of the proposed car parking areas associated with the development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1- 2004. 2. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate. 3. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. A plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement. <p>Suitable conditions will be imposed (conditions 3.6.1 and 3.6.2).</p>
NSW Police	<p>NSW Police reviewed the submitted Crime Prevention Through Environmental Design report and no objections were raised subject to conditions (conditions 4.3.6, 4.2.1 and 10.19.1).</p>
Sydney Water	<p>The DA was referred to Sydney Water as the development seeks approval for more than 200 units. Sydney Water has reviewed the proposal and identified the need for a Section 73 Certificate. This includes requirements that the developer will be required to construct the drinking water mains, recycled water mains and sewer lead-in main to service the proposed development. Detailed requirements will be provided to the developer at the Section 73 Certificate stage. Conditions have been imposed requiring a Notice of Requirements prior to the release of the CC and Section 73 Certificate prior to the release of the OC (conditions 3.3.1 and 10.4.1).</p>

8. Internal referrals

8.4 The DA was referred to internal sections of Council for comment as summarised in the table below:

Section	Comments
Engineering	No objections subject to conditions (conditions 6.4.1, 6.4.5 and 10.8).
Building	No objections subject to conditions (conditions 5.1.1 and 8.2.1).
Traffic Management Section (TMS)	No objections subject to conditions (conditions 4.3.1, 4.3.4 and 4.3.5).
Waste Services	No objections subject to conditions (conditions 10.21 and 11.8). A discussion on waste collection is undertaken in Section 9 below.
Environmental Health	Given the site's proximity to Windsor Road, the proposal and supporting acoustic report was referred to Council's Environmental Health Section. The DA was considered acceptable subject to conditions (conditions 4.12 and 12.1).

9. Key issues

9.4 An assessment of the key issues relating to the proposed development is presented below:

(a) Clause 4.6 – exceptions to the provisions of the Growth Centres SEPP

The applicant has lodged a Clause 4.6 'Exceptions to development standards' submission to the permissible building height established by Clause 4.3 of Appendix 5 of the Growth Centres SEPP. The objective of the clause is to provide an appropriate degree of flexibility in applying certain development standards, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant has submitted a formal written request for the building height variation, which is held at **Attachment 2**.

Clause 4.6 further states the following:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the*

objectives for development within the zone in which the development is proposed to be carried out, and

(b) *the concurrence of the Director-General has been obtained.*

In accordance with Clause 64 of the Environmental Planning and Assessment Regulation 2000, a consent authority, in this case the JRPP, has 'assumed concurrence' from the Director-General of the Department of Planning and Environment.

Building height variation

Clause 4.3 of the SEPP establishes that the maximum height of buildings on the R3 zoned portion of the subject site is 12 m. The Growth Centres SEPP defines building height as follows:

'building height (or height of building) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.'

The buildings comply with the 12 m height limit measured from existing ground level with the exception of minor encroachments on corners of the buildings as a result of the topography of the land. The development has been designed to step with the topography of the land, however, point encroachments of up to 600 mm still occur. On average, the building height is below the 12 m height limit. Further, the development does not exceed the permissible floor space on the site or result in increased residential density. A breakdown of variations sought is provided based on each block:

Block	A	B	C	D	E
Max. height exceedance	475 mm	600 mm	592 mm	546 mm	222 mm

The NSW Land and Environment Court has established the following 'five part test' for a consent authority to take into consideration when deciding whether to grant concurrence to a variation to a development standard:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

The objectives of Clause 4.3 are as follows:

- (a) *to establish the **maximum height of buildings** on land within the Area 20 Precinct,*
- (b) *to minimise **visual impact** and **protect the amenity** of adjoining development and land in terms of **solar access** to buildings and open space,*
- (c) *to facilitate **higher density development in and around commercial centres and major transport routes.***

- **Maximum height**

The average height of the development complies with the 12 m height limit established by the development standard. The maximum variation sought is 600 mm on Block B, which is equivalent to a 5% variation in maximum building height.

The development does not achieve another residential level as a result of the exceedance in height. On examination of the elevations of the development, it can be seen that, whilst some portions of the buildings exceed the height limit, other elements of the buildings are below the height limit by an equivalent or greater amount, thereby suitably offsetting any increases on other parts of the buildings.

- **Solar access to buildings and open space of adjoining development and land**

The overshadowing impact as a result of the variation is negligible, as the overshadowing only occurs at points only. The proposed units comply with the solar access requirements of the Residential Flat Design Code, as 70% of the dwellings achieve a minimum of 3 hours of direct sunlight between 9am and 3pm on the winter solstice.

Overshadowing on adjoining properties is minimal, as the majority occurs on local roads. Overshadowing does occur to the development to the south, however, the overshadowing is a result of proposed Block E, which has a maximum height exceedance of only 222 mm. The overshadowing impact as a result of the variation is minimal only. All units provide a 6 m side setback to ensure adequate building separation.

Further, the adjoining development has a similar permissible height of 12 m and shadowing impacts are negated through the provision of ample building separation, widened internal roads within the development and suitable setbacks.

- **Higher density development in and around local centres and major transport routes**

The site is approximately 600 m from the Rouse Hill Town Centre, existing bus transitway and future Rouse Hill station on the North West Rail Link. The height variations are minimal and the development is considered a suitable location considering its proximity to transport and the commercial centre.

2. **The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.**

The purpose of the standard is still considered relevant to the proposal. However, 100% compliance in the circumstances is considered unreasonable.

3. **The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.**

The purpose of the development standard would not be defeated if compliance was required. However, 100% compliance is considered unreasonable as the variation is acceptable based on merit.

4. **The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.**

Variations to the development standards of building height have similarly been considered in the Growth Centre. JRPP-14-91 approved in December 2014 for the construction of 4 x 4 storey residential flat buildings included a

variation of up to 4.6% to the 12 m height limit of a residential flat building in the Area 20 Precinct. The variation involved a 550 mm change to the roof height. Therefore, the proposed point variation is consistent with other similar variations considered in the locality.

- 5. The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

The development is on a greenfield site. Full compliance with the development control would be able to be achieved, but the variations do not increase residential density. Compliance would be unreasonable in the circumstances.

(b) Blacktown City Council Growth Centre Precincts Development Control Plan 2010

The provisions of the Blacktown City Council Growth Centre Precincts Development Control Plan 2010, in particular Section 4.6.1 Residential flat buildings and shop top housing. **Attachment 8** provides a table that outlines the proposal's compliance with the Growth Centres DCP, with the exception of setbacks as outlined below.

Front setback variation

The applicant seeks a variation to the Growth Centres DCP requirement for 6 m front setbacks where adjoining a public road. The development provides a front setback of 5 m to a public road. The variation is considered acceptable as the variation is the result of a request by Council officers to increase local roads within the R3 zone from a 16 m wide road reserve to an 18 m wide road reserve. All the roads under the Government's DCP in this area have been designed to be 16 m wide only, despite the higher density of development that can be achieved. A 16 m wide road only allows 2 travel lanes and 1 lane of parking.

Given the high density of residents and on-street parking that will occur in this area, we have requested that applicants increase the road width to 18 m, so that 2 parking lanes can be achieved. As a result, the site area of the development has decreased, but as a concession to the Applicant because of the acceptance of the wider roads, the reduced setback to the road of 5 m is acceptable.

The increase in road width is considered to be beneficial to the surrounding local community. The decreased front setback by 1 m is minor as the bulk and scale of the development has not increased and the building separation to development on the opposite side of the road will not be altered either. Had the 16 m roads only been provided, then the development would have complied with the 6 m front setback requirement.

(c) Crime prevention through environmental design

A CPTED assessment has been submitted by the Applicant. The proposed development is considered acceptable from a CPTED perspective as:

- All buildings will be secured and fitted with an intercom for visitors.
- Access to the basement level is proposed to be by a secured roller door for all blocks, which is also to be fitted with an intercom entry system for visitors.
- Access from secured garages is available to all units.

- There will be high surveillance of internal communal areas as the building design encourages casual surveillance of these areas.
- Residential entrances, pedestrian areas and common open spaces will be illuminated at night by vandal proof security lighting.
- Buildings will be constructed in external materials that are robust and durable. Measures will also be adopted to discourage vandalism and graffiti.

Where appropriate, suitable **conditions** will be imposed to ensure that works required to make the development safe and secure are undertaken to Council's satisfaction (**conditions 4.3.6, 4.2.1 and 10.19.1**).

(d) Fencing

The applicant has identified fencing to enclose ground floor terraces areas for individual units. A **condition** will be imposed requiring fencing to be a maximum of 1.5 m high and to be a decorative style to ensure high quality aesthetics is presented to the public street (**condition 4.8.1**). Fencing is proposed to be setback 2.5 m from the property boundary. The area between the enclosing fence and road reserve is identified on the submitted landscape plan as densely landscaped with trees and shrubs. The provision of ground floor terrace fencing is considered satisfactory as it is considered that the fencing creates a sense of ownership, creates separation between public and private spaces and provides security to ground floor units. A **condition** will be imposed requiring 1.8 m high open style powder coated palisade fence along the property boundary adjoining Windsor Road (**condition 4.8.2**).

(e) Waste management

The development seeks to use a private contractor to service the development, with waste collection located in the basement areas. Evidence has been provided that 2 separate contractors are capable of servicing the development. Suitable driveway grades and height clearances have been achieved to ensure compliance with relevant Australian Standards.

Conditions of consent will be imposed requiring compliance with the submitted Waste Management Plan. Additional details regarding waste management agreements, to ensure the longevity of the waste issue collection proposal, will also need to be satisfied prior to Construction Certificate issue (**conditions 10.21 and 11.8**).

10. Public comment

10.1 The DA was notified to adjoining and nearby property owners and occupants for a period of 14 days from 16 September and 30 September 2014. An advertisement was also placed in the local newspaper and a notification sign erected on site. As the site is located on the Blacktown LGA boundary, the Hills Shire Council was also notified of the application.

10.2 In response to the public notification, 1 individual submission was received. The submission raised concerns regarding overshadowing, setbacks, apartment design, bulk and scale of Block E and building height. Each concern is discussed below.

10.3 Overshadowing

The objector is concerned that Block E will substantially overshadow Stage 6 of the objector's site (at 822 Windsor Road).

Town planning response:

The submitted shadow plans identify that Stage 6 of the objector's development is partially overshadowed throughout the day on the Winter Solstice. In response to the concerns raised by the objector, the applicant has amended the plans for Building E to split the building design into 4 components to allow for the building to be brought well under the maximum permissible height limit of 12 m and follow the natural fall of the site. In addition, the Building E design has been modified to remove all balcony awnings facing the objector's building on the 3rd floor, to enable solar access to ground floor units on the objector's site.

The overshadowing impact on the objector's site is further exacerbated given the north-south orientation of the site and that the buildings are not separated by a local road. For the scale of the development, the proposed buildings comply with the 12 m building separation requirement. Therefore, overshadowing of the adjoining site cannot be avoided, however the applicant's redesign of Building E reduces the overshadowing impact.

10.4 Setbacks

The objector has identified that the Growth Centres DCP required an 11 m setback, including a 5 m landscaped buffer, to the local road on the western boundary.

Town planning response:

The applicant has amended the plans to comply with the setback requirement, with the exception that the setback is 10 m in line with the reduced front setback given the provision of 18 m wide local roads as discussed previously.

10.5 Apartment design

The objector has provided comments that more than 10% of single aspect apartments with a southerly aspect have been provided, which is inconsistent with the 'rules of thumb' established by the RFDC.

Town planning response:

The RFDC establishes a 'rule of thumb' to limit the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum 10% of the units proposed. A total of 4 units have a single southerly aspect, which is equivalent to 2%. Where units could be provided with a single southern aspect, the building has been articulated in a manner to provide for side windows to encourage solar access and natural ventilation.

10.6 Bulk and mass of Block E

The bulk and mass of block E as viewed from the objector's property is quite large and unacceptable.

Town planning response:

The length of Block E is consistent with the length of Stage 6 of the objector's development. Block E complies with the setback controls, providing a 6 m side setback, 5 m front setback and 13 m setback to Windsor Road.

As outlined above, since notification the applicant has also amended the plans for Building E to split the building design into 4 components, to allow for the building to follow the natural fall of the site. Therefore, the bulk and mass of Block E is now considered satisfactory.

10.7 Building height

The building height is non-compliant.

Town planning response:

As identified previously within this report, the proposal seeks a maximum 600 mm variation to building height. The variation only occurs at points on the buildings as a result of the natural fall of the land. Council officer assessment is that the variation is satisfactory as the mean building height is compliant with the 12 m height limit, there will be no extra floors, and point encroachments have a negligible impact on the overshadowing, privacy and amenity impacts on adjoining properties.

10.8 None of the objections are considered to warrant refusal of the DA.

11. Section 79C consideration

11.1 Consideration of the matters prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 (as amended) is summarised in **Attachment 9**.

12. Conclusion

12.1 The proposed development has been assessed against the matters for consideration listed in Section 79C of the Environmental Planning and Assessment Act 1979 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. Further, the site is considered suitable for the proposed development.

12.2 The proposal is consistent with the objectives of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the R3 Medium Density zone and is permissible in the zone with development consent. The proposal also complies with the provisions set out in State Environmental Planning Policy (Infrastructure) 2007. The development meets the requirements of the Blacktown City Council Growth Centre Precincts Development Control Plan 2010, and is considered satisfactory with regard to relevant matters such as built form, height, access, stormwater drainage, site contamination and salinity subject to the imposition of suitable conditions of consent to satisfactorily control the development.

12.3 The proposed variations to building height and building setback are considered acceptable on their merits.

13. Recommendation

13.1 The Development Application be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at Attachment 1.



Melissa Parnis
Assistant Team Leader Projects



Judith Portelli
Manager Development Assessment



Glennys James
Director Design and Development