

Report to Sydney West Joint Regional Planning Panel

JRPP No.	2014SYW149 DA
DA No:	JRPP-14-1907
Proposed Development:	6 Residential Flat Buildings
Development Type:	Capital Investment Value > \$20 million
Lodgement Date:	29 September 2014
Land/Address:	Proposed Lot 16B within the subdivision of Lot 16 DP 31797 Pelican Road, Schofields
Land Zoning:	R3 Medium Density Residential
Capital Investment Value of Approved Development:	\$48,113,100
Applicant:	Universal Property Group 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:	6 May 2015
Date Considered by JRPP:	20 May 2015



Figure 1 Photomontage (Universal Property Group, 2015)

ASSESSMENT REPORT

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1 Executive summary

- 1.1 Blacktown City Council is in receipt of a Development Application (DA) from Universal Property Group Pty Ltd. The DA seeks approval for the construction of 6 x 5 storey residential flat buildings containing 216 units on proposed Lot 16B within the subdivision of Lot 16 DP 31797 Pelican Road, Schofields.
- 1.2 The proposed development constitutes 'regional development' requiring referral to the Joint Regional Planning Panel (JRPP) as it has a capital investment value of \$48.1 million. While council is responsible for the assessment of the DA, the Sydney West JRPP is the consent authority.
- 1.3 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.
- 1.4 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). The proposed development is fully compliant with the numerical provisions of the Growth Centres DCP, with the exception of front setbacks and balcony width dimensions. The development complies with the Growth Centres SEPP, with the exception of building height and floor space ratio.
- 1.5 The applicant has lodged a request under Clause 4.6 for a variation to development standards for consideration by the JRPP. The building height is varied by up to 1.8 m above the permissible height limit at points only. The variations are considered acceptable as the maximum exceedance is of the lift overrun and rooftop pergolas, which have a negligible shadow and amenity impact on adjoining properties. The height variation does not result in additional floor levels. The roof and parapet of Buildings A and D exceed the height limit by a maximum 500 mm at points only. The roof lines and parapets of Buildings B, C, E and F are at or below the 16 m height limit.
- 1.6 The DA also seeks a Clause 4.6 variation to floor space ratio. The permissible FSR is 1.75:1, whereas the development proposes an FSR of 1.78:1. The variation is considered acceptable as the DA has been modified to widen the proposed local roads under DA-14-912 to 18 m at council's request. As a result, the site area of the development has decreased by 264 sqm. Prior to the widening of the local roads, the development was compliant with the FSR requirement. Therefore, considering the variation on its merits, the acceptance of this variation would result in a more desirable outcome from a traffic management perspective and is only the result of a minor decrease in site area. The overall bulk and scale of the development has not been compromised.
- 1.7 The development complies with the numerical requirements of the Growth Centres DCP, with the exception of front 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-14-912. 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 Growth Centres DCP requires a minimum balcony dimension of 2.5 m. The balconies of 35 units do not comply with the minimum dimension requirement. However, the balconies will still provide the required 10 sqm of private open space with a minimum dimension of 2 m, in line with the Residential Flat Design Code (RFDC). As the RFDC is a state-wide standard for residential development, the variation in dimensions in this circumstance is considered acceptable as they will still be usable balconies. The

proposal also achieves 84% compliance with the Growth Centres DCP balcony dimension standard.

- 1.9 The proposal is consistent with the objectives of State Environmental Planning Policy No. 65 (SEPP 65) and satisfactorily achieves the 10 'design quality principles' listed under Part 2 of the SEPP. Council officers have also assessed the application against the design guidelines provided within the Residential Flat Design Code (RFDC). The development complies with all of the numerical recommendations of the RFDC.
- 1.10 The proposed development was notified to property owners and occupiers within the locality between 28 October and 11 November 2014. A total of 8 submissions were received. The main grounds for concern relate to permissibility, non-compliance with building height and floor space ratio, overshadowing impact, privacy concerns, aesthetics and traffic impact. The grounds for objection are noted and, where necessary, appropriate conditions will be imposed on any consent to ameliorate any potential concerns. The grounds for objection are not considered sufficient to warrant refusal of the application.
- 1.11 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.
- 1.12 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 Alex Avenue 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 of Lot 16 Pelican Road. 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 16 m. The existing unsubdivided 'mother' Lot 16 adjoins The Avenue estate, which is zoned R2 Low Density Residential under the Growth Centres SEPP and has a height limit of 9 m.
- 2.3 The site is located approximately 650 m to the east of Schofields Station on the Richmond railway line. Land between the site and Schofields Station has been identified as a neighbourhood centre, with a recently opened Woolworths and recently approved Coles supermarket.
- 2.4 The existing locality is currently characterised by a mix of old rural and new residential development, and is currently undergoing transition with a number of residential subdivisions and residential dwellings now approved within the locality.

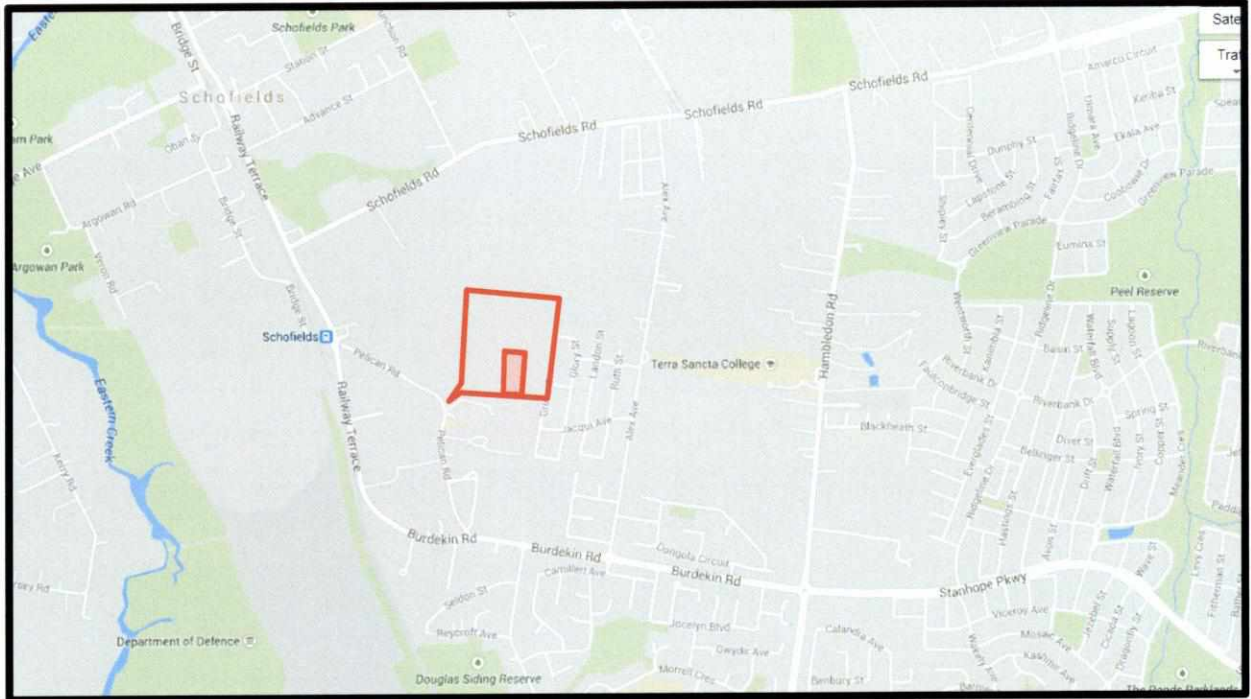


Figure 2 Location map (Source: Google maps, 2015)



Figure 3 Extract from Alex Avenue Indicative Layout Plan (DoPE, 2010)

3 Site description

- 3.1 The site is a proposed lot within a larger allotment which is known as Lot 16 DP 31797 Pelican Road, Schofields. Proposed Lot 16B will be created through the subdivision of the lot approved by DA-14-912, which is yet to be registered at Land Property Information.
- 3.2 Proposed Lot 16B has a regular configuration, with 2 local road frontages to the north and west of the site. The site has dimensions of 80 m to the north, 166 m to the east, 165 m to the west and 81 m to the south. The total site area of Lot 16B is 13,680 sqm.
- 3.3 The site is vacant land that was previously used for rural purposes.



Figure 4 Nearmap captured 30 December 2014

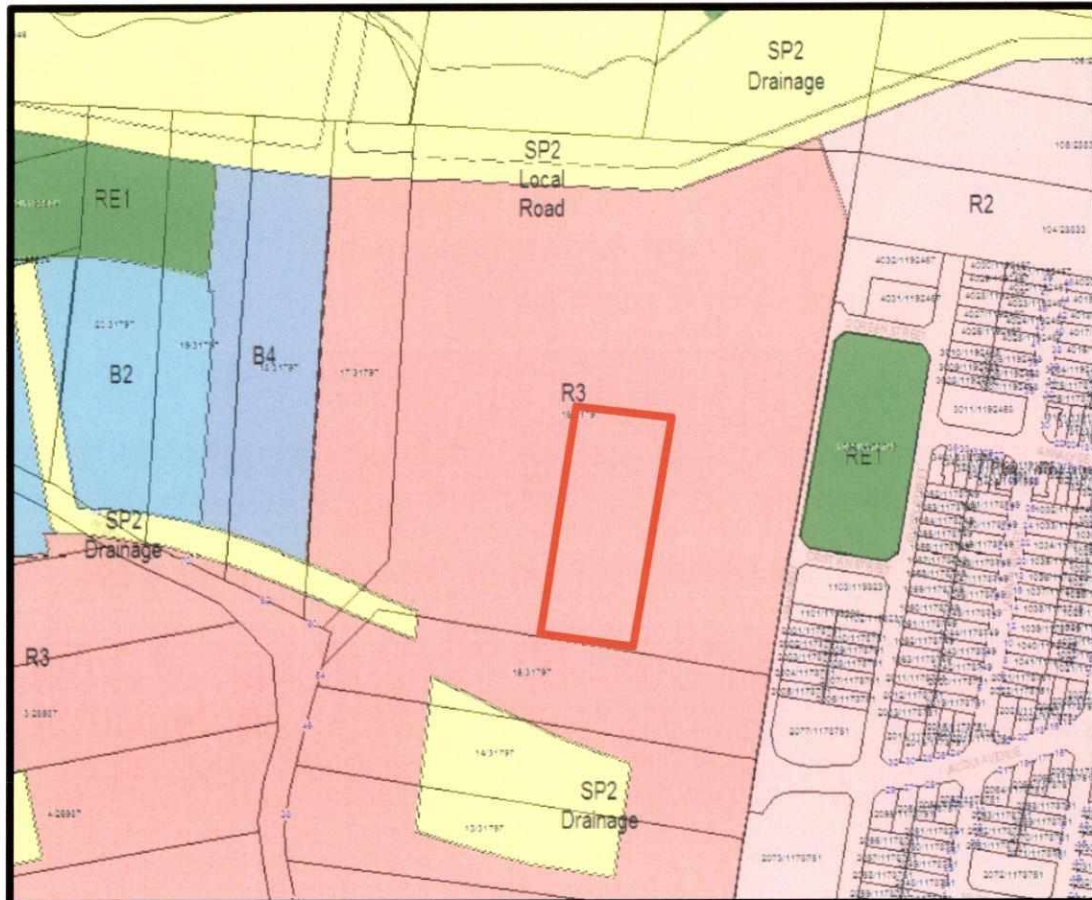


Figure 5 Zoning extract (Source: BCC, 2015)

4 Background

- 4.1 On 17 May 2010, the site of the 'mother' lot was rezoned to R3 Medium Density Residential, SP2 Infrastructure (Local Road) and SP2 Infrastructure (Drainage) under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The site was rezoned from its previous 1(a) Rural zoning under Blacktown Local Environmental Plan 1988 to its current zoning as part of the Alex Avenue Precinct of the North West Growth Centre.
- 4.2 On 30 March 2015, council approved DA-14-912 for the subdivision of the land. This included the clearing of vegetation, bulk earthworks, road construction with a road pattern variation, and drainage infrastructure to facilitate future development of the lots.

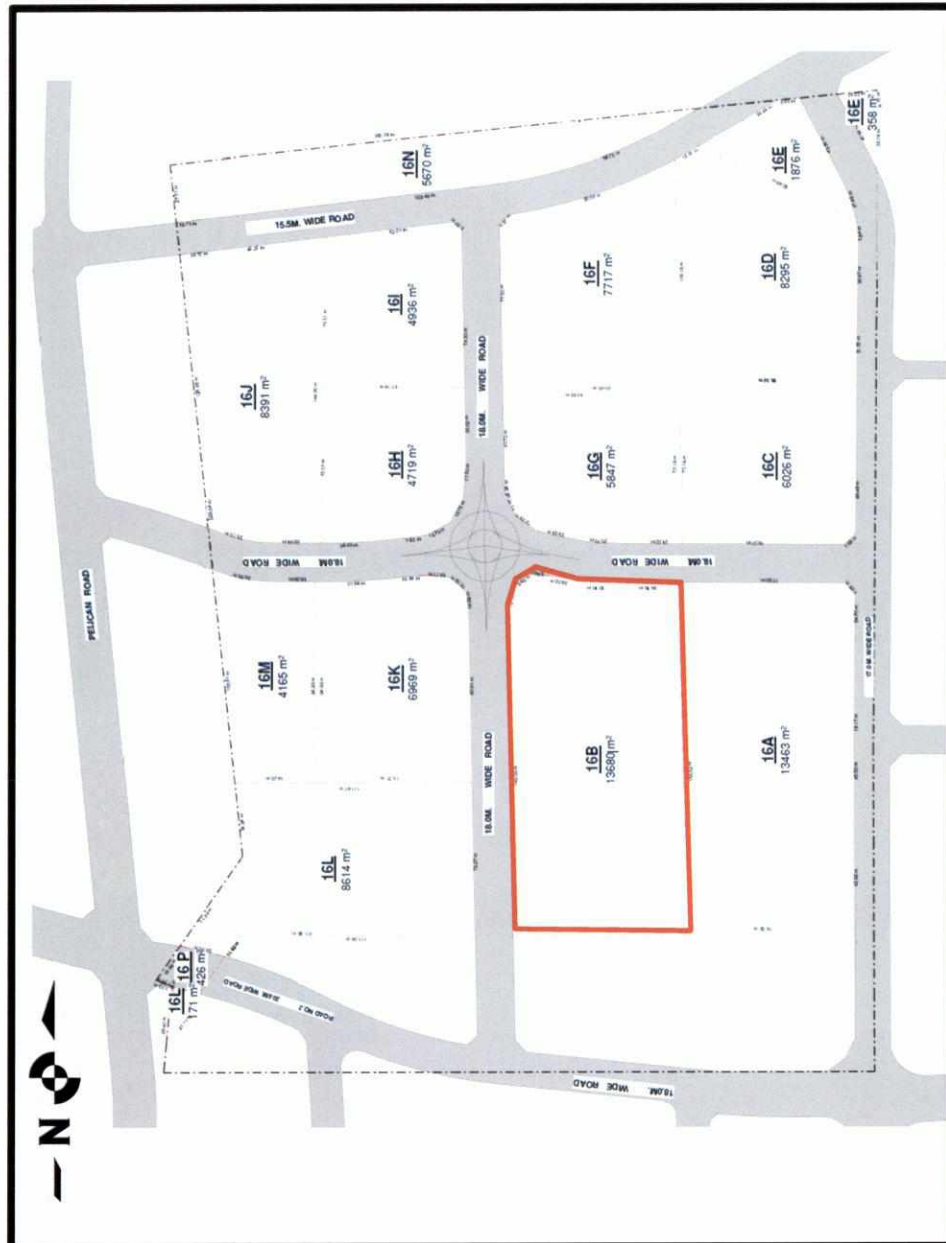


Figure 6 Approved subdivision plan for the subdivision of DA-14-912 (Universal Property Group, 2015)

- 4.3 On 6 August 2014, the applicant lodged a Development Application (JRPP-14-1519) for the construction of 4 x 5 storey residential flat buildings for a total of 270 units at the proposed lot to the east of the subject site, being proposed Lot 16A. In November 2014, the applicant lodged a deemed refusal appeal with the NSW Land and Environment Court (LEC). The LEC is still considering this proposal.

5 The proposal

- 5.1 A total of 216 residential units are proposed, including 26 x 1 bedroom units, 82 x 2 bedroom units and 108 x 3 bedroom units.

5.2 In summary, the 216 residential units are proposed in the 6 new buildings as follows:

Building	A	B	C	D	E	F	Total
1 bed	4	2	11	3	0	6	26
2 bed	22	10	5	20	15	10	82
3 bed	20	17	23	21	9	18	108
Total	46	29	39	44	24	34	216

- 5.3 Each unit has a floor plan consisting of 1,2 or 3 bedrooms. Private balconies and/or courtyards have also been provided. Some units are of a loft design, with floor plans spread over 2 levels.
- 5.4 The maximum building height of the development is 17.8 m. The development seeks an exceedance of 1.8 m above the maximum height limit of 16 m under the Growth Centres SEPP. The maximum variation sought is equivalent to an 11.25% variation to the development control. The applicant has lodged a Clause 4.6 request to vary the development standard. The applicant's Clause 4.6 request is at **Attachment 2** as well as a 3D model plan which demonstrates what part of the development exceeds the maximum height limit. Council's assessment of the variation is undertaken in Section 9.
- 5.5 The proposal has an FSR of 1.78:1, which exceeds the maximum FSR of 1.75:1 for the site. The development would have complied with the FSR control, however the site was subsequently revised 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.
- 5.6 The proposal will result in a variation to the 6m front and secondary setback by 1 m, to a 5 m setback. The reduction in front setbacks is also as a result of meeting council's request for 18 m wide roads.
- 5.7 The DA provides for 2 levels of basement car parking, for a total of 320 car parking spaces. The basement provides the following number of parking spaces:
- 270 resident car parking spaces, with a surplus of 6 spaces
 - 44 visitor car parking spaces
 - 1 washbay
 - 72 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.

- 5.8 The DA proposes 2 new vehicle access points to proposed roads. All basement levels will be connected to one another.
- 5.9 The development provides for a central communal open space area at ground level, internally shared amongst all units. The communal open space has a total area of 3,095 sqm. The common landscaped areas will be embellished with seating, water features, pathways, pergolas and appropriate planting. In addition, rooftop terrace and landscape areas are provided for the amenity of future residents. This includes rooftop pergolas and landscaped areas.

- 5.10 The building has been designed to include recessed balconies and variation in the roof form articulation. Balconies incorporate feature elements used on the façade treatment, with aluminium framed glass balustrades. The development proposes a variety of external colours and finishes, including painted render finishes, aluminium framed windows, as well as feature elements of terracotta and aluminium cladding panels. Powdercoated aluminium louvered screens to balconies are provided to address amenity concerns in relation to privacy and solar access. Photomontages which demonstrate the colours and finishes are held at **Attachment 3**.
- 5.11 A Design Verification Statement prepared by Tarun Chadra of Universal Property Group has been prepared for the development, in accordance with the requirements of SEPP 65. The statement identifies that the building design responds to the site analysis and reflects the shape of its site. The building is of a contemporary residential character and will sit well with future development within the precinct. The statement identifies that the building has been appropriately modulated and articulated to reduce apparent bulk and express its residential character. The division of the building's mass into L-shaped blocks will define the central courtyards. Council officer assessment of the design principles established within SEPP 65 is undertaken in **Section 6** below.
- 5.12 The Applicant has submitted a Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd. The report reviews the road network in the vicinity of the site and assesses the traffic implications of the development proposal in terms of road network capacity. The report identifies that in accordance with the Roads and Maritime Services publication *Guide to Traffic Generating Developments, Section 3 – Land Use Traffic Generation* dated October 2002, the development proposal yields a traffic generation potential of approximately 62 vehicle trips per hour during commuter peak periods. The report identifies that the projected increase in traffic activity as a consequence of the development proposal is consistent with the objectives of the rezoning of the local area and will not have any unacceptable traffic implications in terms of road network capacity.
- 5.13 The report has also undertaken an assessment of the required car parking for the proposal in respect of the development controls established by the Growth Centres DCP. The development proposal necessitates an off-street car parking requirement of 314 parking spaces and the proposed development makes provision for a total of 320 off-street parking spaces. The report also concludes that the layout of the proposed car parking facilities has been designed to comply with the relevant requirements as specified in Australian Standard 2890.1, in respect of parking bay dimensions, ramp gradients and aisle widths. Council officer assessment of the traffic and parking implications of the development is undertaken in detail in Section 9.
- 5.14 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.

(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 Application will now 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 does not have more than 300 dwellings and does not have access within 90m of a classified road. Therefore, the development is not classified as 'traffic generating development to be referred to RMS' under the SEPP. Notwithstanding this, the DA was referred to the RMS in light of adjoining similar sized development on the adjoining site, Lot 16A. RMS raised no objection to the DA and provided comments for council consideration. See **Section 7** for further details.

(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. The subdivision DA (DA-14-912) addressed contamination concerns on the site. In addition, suitable **conditions** will be imposed on any development consent to address these matters and to ensure that the site is made suitable for residential development without any limitations (**Condition 8.7**).

(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 development applications 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 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 thereon.

(f) Residential Flat Design Code (RFDC)

In addition to the 10 'design quality principles' referred to above, SEPP 65 requires that, when assessing an application, 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 DA, 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 on any development consent requiring compliance with the submitted BASIX Certificates (**Condition 2.4.1**).

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

The subject site is zoned R3 Medium Density Residential pursuant to the Growth Centres SEPP. Residential flat buildings are permissible within the zone with consent. Appendix 4, Alex Avenue and Riverstone Precinct Plan, applies to the site as the property is located within the Alex Avenue Precinct. **Attachment 7** provides an assessment of the development standards established within the Growth Centres SEPP and the proposal's compliance with these standards.

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

The Growth Centres DCP applies to the site. **Attachment 8** provides a table that 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 front setbacks and balcony dimension variations. Both variations are discussed in detail in Section 9 of this report.

7 External referrals

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

Authority	Comments
Roads and Maritime Services (RMS)	<p>RMS raises no objection to the proposal. RMS provided the following comments for consideration:</p> <ol style="list-style-type: none"> 1. The proposed local road network shall comply with the Alex Avenue Precinct indicative layout plan as detailed in the BCC Growth Centre Precincts DCP 2010. 2. The car parking provision is to be to council's satisfaction. 3. The layout of the proposed car parking areas (including driveways, grades, turning paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1- 2004. 4. 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. <p>RMS comments are noted. DA-14-912 for the subdivision and road creation addressed the local road network to service the development. Council officers are satisfied with the car parking provision. Points 3 and 4 have been imposed as conditions (Conditions 4.2.1 and 3.9).</p>
NSW Police	<p>Initial comments from NSW Police requested that the applicant submit a Crime Prevention Through Environmental Design Report. The Applicant subsequently submitted a CPTED report and no objections were raised by the NSW Police subject to conditions (Conditions 4.8, 4.9 and 4.10).</p>

Authority	Comments
Sydney Water	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, which is included as a condition on the consent (Condition 10.4.1).
Rural Fire Service (RFS)	The northern portion of the site is identified as being bushfire prone. In accordance with Section 79BA, the DA was referred to the Rural Fire Service. RFS has provided a bushfire safety authority and requested that conditions be imposed (Conditions 3.8, 8.11 and 10.23).

8 Internal referrals

8.1 The DA was referred to the internal sections of council as summarised below:

Section	Comments
Engineering	Council's Engineering Section has reviewed the DA and raises no objections, subject to conditions (Conditions 6.1, 6.7 and 9.5).
Building	Council's Building Section has reviewed the DA and raises no objections, subject to conditions (Conditions 5.1 and 8.1).
Traffic Management Services (TMS)	Council's Traffic Management Section (TMS) has assessed the proposal and raises no objection from a traffic management point of view.
Waste Services	Council's Waste Services Section has reviewed the DA and raises no objections, subject to conditions (Conditions 10.21.2 and 11.8.1). A detailed discussion of waste collection is undertaken in Section 9.

9 Assessment

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

(a) **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, apply. **Attachment 8** provides a table that outlines the proposal's compliance with the Growth Centres DCP, with the exception of front setback and balcony dimensions which is outlined below.

(i) **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 16m road reserve to an 18 m 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 their 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 considered to be 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 be not be altered either. Had the 16 m roads only be provided, then the development would have complied with the 6m front setback requirement.

(ii) Balcony dimensions

The Growth Centres DCP requires a minimum balcony dimension of 2.5 m. The balconies of 35 units do not comply with the minimum dimension requirement. However, the balconies will still provide the required 10 sqm of private open space with a minimum dimension of 2 m, in line with the Residential Flat Design Code standard. As the RFDC is a state-wide standard for residential development, the variation in dimensions in this circumstance is considered acceptable as they will still be usable balconies. The proposal also achieves 84% compliance with the Growth Centres DCP balcony dimension standard.

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

The applicant has lodged 2 Clause 4.6 'Exceptions to development standards' submissions. 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.

(i) Building height variation

Clause 4.3 of the Growth Centres SEPP establishes that the maximum height of buildings on the R3 zoned portion of the subject site is 16 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 16 m height limit measured from existing ground level with the exception of encroachments of lift overruns, parapets and feature roofs. No additional residential density is proposed. The development seeks a maximum variation of 1.8 m, with a breakdown of variations sought as follows:

Block A

1.8 m - Lift overrun
1.4 m (eastern) and 1.5 m (western) - Roof shading device
300 mm – Building roof
300 mm - Balustrade

Block B

200 mm – Stair roof

Block C

200 mm – Roof shading device

Block D

300 mm to 500 mm – Unit roof

Block E

200 mm - Stair roof

Block F

1.3 m - Stair roof.

The 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 Height of buildings are as follows:

(a) *To establish the **maximum height of buildings** for development on land within the Alex Avenue and Riverstone Precincts.*



- (b) To **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 the local centre**, the neighbourhood centres and **major transport routes** while minimising impacts on adjacent residential, commercial and open space areas.
- (d) to provide for **a range of building heights in appropriate locations that provide a high quality urban form**.

- **Maximum height**

The maximum height limit on the site is 16 m, whilst the maximum height of the development is at Block A, where the lift overrun is 17.8m in height. The maximum variation sought is 11.25%, although it is as low as 1.25% because of the slope of the land.

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.

Some variations in height limit are also a result of the applicant's desire to use the rooftop terrace to increase the amenity of future residents. The greatest height variation of 1.8m is sought because of the lift overrun of Block A. Roof shading devices and stair wells of Blocks A and F are between 1.3 m and 1.5 m over the height limit.

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

Overshadowing as a result of lift overruns and the stairwell roof are negligible, as overshadowing is captured within the roof space. Regarding other height variations and solar access impacts, whilst overshadowing does occur, the impact is not considered unreasonable. The site to the west is only impacted at 9 am on the Winter Solstice, and the site to the east is only overshadowed from 2 pm onwards. The most significantly impacted property is the site to the south (also owned by the developer). However, the proposal has provided a 7 m to 9 m setback to this property, which is in excess of the minimum 6 m setback requirement.

Further, adjoining development has a similar permissible height of 16 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 650 m from the Schofields railway station and Alex Avenue local centre. The height variations are minimal and the development is considered a suitable location considering its proximity to transport and the commercial centre.

- **Range of building heights in appropriate locations**

The site is considered suitable for the development given its proximity to the Schofields railway station and the Alex Avenue local centre. The proposal seeks a variation of between 1.25% and 11.25% to the building height control, however the majority of the development continues to comply with the development control.

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. The variation to roof height in that case is a maximum 500 mm, which equates to a 3.1% change. Variations to roof terraces and lift overruns are consistent with deviations considered elsewhere within the Growth Centres.

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 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.

(i) Floor space ratio (FSR) variation

The proposal seeks a variation to the maximum permissible floor space ratio, proposing an FSR of 1.78:1. The maximum permissible FSR on the site is 1.75:1. The non-compliance with the FSR is a result of a decrease in site area to provide for wider local roads within the R3 zone. The table below provides a summary:

Gross floor area (GFA) of development	24,390 sqm	FSR (GFA/ Site area)
Site area with 18 m roads	13,680 sqm	1.78:1
Site area with 16 m roads	13,944 sqm	1.75:1

Using the same Land and Environment Court 'five part test' for a consent authority to take into consideration when deciding whether to grant concurrence to the variation to a development standard, the following comments are offered:

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

The objective of Clause 4.4 Floor space ratio is:

- (1) *The objective of this clause is to control the bulk and scale of buildings within the Alex Avenue and Riverstone Precincts by setting maximum floor space ratios for development in Zone R3 Medium Density Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B4 Mixed Use and Zone IN2 Light Industrial.*

The objective is considered to be achieved as the variation is a result of the reduced site area. The site area has been reduced to provide for 18 m wide local roads that will have a greater traffic benefit to the locality. The bulk and scale of the building is not considered to be compromised by the change, as with the same proposal, but on a larger site area, the development would have complied.

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, given the provision of 18 m local roads, which has reduced the site area of the development by 264 sqm, 100% compliance in this circumstance is considered unreasonable. Further, should the development provide the required 16 m roads only, the proposal would comply with the maximum FSR.

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

As identified above, the development is not able to comply with the FSR control due to the decrease in the site area to provide for wider local roads within the R3 zone. However, compliance in this circumstance is considered unreasonable as a significantly beneficial traffic management outcome is being achieved.

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.

All other developments within the locality have complied with the FSR. Departure from the FSR in this circumstance is only on the basis of the provision of wider public roads.

5. **The compliance with 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 a greenfield site. Compliance with the development control would be able to be achieved but is unnecessary and unreasonable in the circumstances as outlined above.

(c) Crime Prevention Through Environmental Design

A CPTED assessment has been submitted by the Applicant and reviewed by the Quakers Hill Local Area Command who have provided conditions for the development. The proposed development is considered acceptable from a CPTED perspective as:

- The proposed buildings overlook the streets, future public reserve to the north of the site, internal private accessways and common open space areas to facilitate casual surveillance.
- The basement carpark and entrances to the residential areas can be appropriately secured.
- CCTV is proposed throughout the site.
- 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.

The measures will form suitable **conditions** on any consent to ensure that the above works required to make the development safe and secure are undertaken to council's satisfaction (**Conditions 4.8, 4.9 and 4.10**).

(d) Fencing

The Applicant has identified that a front fence of 1.5 m high, constructed of aluminium slats with rendered brick piers, is proposed to enclose ground floor terrace areas. Fencing is proposed to be setback 2 m from the property boundary. 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 all the ground floor units.

(e) Waste management

The development seeks to utilise council's Waste Services, with the provision of 1100 L waste collection and 240 L recycling facilities. Buildings are provided with garbage chutes for waste and separate recycling bins. A 24 hour caretaker is proposed for the development. Recycling waste collection will also occur in the basement. The development has made provision for an 11 m truck with 4.5 m height clearance and a 25 m turning circle to collect from the basement level.

Conditions of consent will be imposed on any consent issued requiring compliance with the submitted Waste Management Plan. Additional details regarding the waste management agreement to ensure the ongoing waste collection for the proposal can be achieved and will need to be satisfied prior to the issue of the Construction Certificate (**Conditions 10.21.2 and 11.8.1**).

10 Public comment

- 10.1 The DA was notified to adjoining and nearby property owners and occupants for a period of 14 days from 28 October to 11 November 2014. An advertisement was also placed in the local newspaper and a notification sign erected on site.
- 10.2 In response to the public notification, 8 individual submissions were received. See **Attachment 9** for the location of objectors. The concerns have been summarised below, together with Town Planning comments thereon:

10.3 Permissibility

- (a) The zoning plans for the area identify the site as an R3 Medium Density Residential zone.
- (b) The development does not meet the objectives of the zone.

Town Planning comment:

- The site is zoned R3 Medium Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. 'Residential flat buildings' are a permissible use within the R3 zone under the Growth Centres SEPP.
- The development is considered to meet the objectives of the R3 zone, which includes:
 - To provide for the housing needs of the community within a medium density residential environment.
 - To provide a variety of housing types within a medium density residential environment.
- As the development is a permissible land use within the zone, and is compliant with the development controls established within the Growth Centres SEPP and Growth Centres DCP with the exception of minor variations to building height, floor space ratio and front setbacks, the approval of the development is considered to provide for additional housing types and meet local housing needs. As the site is less than 800m from Schofields railway station and the nearby Alex Avenue town centre, the development site is considered suitable for the density proposed.

10.4 Building height

The development exceeds the permissible height limit.

Town planning comment:

- The permissible height limit on the site is 16 m under the Growth Centres SEPP. It is acknowledged that the development exceeds the building height by up to 1.8 m, however this is at points of the building only. The majority of the built form is below the 16 m height limit. The proposed variations are a result of the topography, as well as the use of the roof as a common open space area to improve amenity for future residents. The height exceedance include parapets up to 500 mm, lift overruns up to 1.8 m and rooftop pergolas up to 1.8 m. The variations are considered to not impact upon adjoining R2 zoned land. The site is more than 100 m away from R2 zoned land to the east. The variations do not result in an increased density, overshadowing or privacy impacts on these properties.

10.5 Floor space ratio

The development exceeds the permissible floor space ratio.

**Town planning comment:**

- The permissible floor space ratio on the site is 1.75:1 under the Growth Centres SEPP. The development does propose an FSR of 1.78:1. However, the exceedance is a result of a reduced site area to cater for 18 m local roads within the subdivision at council officer request. The Growth Centres DCP identifies the provision of 16 m roads, however, the approved subdivision will provide 18 m roads to cater for increased traffic as a result of residential flat development. The increase in road width has resulted in a decrease in site area by 264 sqm. The development would have complied with the FSR control if the 16m local roads were provided. However, it is considered that the modified proposal will result in a more suitable outcome with wider roads to service the development. It is considered that the development's bulk and scale has not been increased as a result of the minor increase in FSR.

10.6 Overshadowing

The development will cause excessive overshadowing to the neighbouring properties.

Town planning comment:

- The objectors' properties are located within the R2 zone within 'The Avenue' estate, which is more than 100 m to the east of the site. The proposal will not result in any increased shadowing to the objectors' properties given the distance from their properties to the development.
- In addition, the development complies with the required solar access, with 79% of units provided with 3 hours of solar access on the Winter Solstice (June 21). The development proposal also provides for the required 12 m separation between buildings, to ensure adjoining properties' amenity is not affected.

10.7 Privacy

The development will allow direct overlooking into the private open spaces of the neighbouring properties.

Town planning comment:

- The development will not result in any direct overlooking to the objectors' properties as there is a similar sized development between this proposal and the objectors' properties.

10.8 Aesthetics

- The development will have a negative and undesirable visual impact on the newly and existing built neighbourhoods and the amenity of the area. All surrounding areas consist of single and two storey dwelling housing and residential lots. The bulk and scale of the development is not consistent with what is being approved in close vicinity.

Town planning comment:

- The development has been architecturally designed. As identified above, the development provides for variation in colours and finishes, articulation to the building façade and roof line, and includes architectural roof features on corner elements to define its character.
- Whilst the objectors' properties are located in a portion of the Alex Avenue Precinct that is of low density character, the site of this proposal is in a medium density context. Whilst the area is currently in transition, the site's proximity to Schofields

railway station and the Alex Avenue town centre identifies the site as one suitable for residential flat building development.

10.9 Traffic impact

The development will intensify traffic movement within the area, requiring wider roads and additional on and off-street parking. The existing roads are not capable of handling such large developments.

Town planning comment:

- The approved subdivision intends to create 18 m wide local roads. This is in excess of the Growth Centre DCP requirement for 16 m roads. With a carriageway width of 11 m, the wider roads will enable 2 lanes of traffic (one each direction) and 1 lane of parking on each side of the road.
- In addition, in accordance with the Growth Centres DCP, the development requires the provision of 314 car parking spaces. The proposal provides 320 car parking spaces, which is in excess of the required car parking.
- Both RMS and council's Traffic Management Section have reviewed the proposal and have raised no objections. Therefore, the local road network is considered capable of serving the development and locality.

11 Section 79C consideration

11.1 Consideration of the matters prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 are summarised below:

Heads of Consideration 79C	Comment	Complies
a. The provisions of : (i) Any environmental planning instrument (EPI) (ii) Any development control plan (DCP) (ii) The regulations	<p>The provisions of the relevant EPIs relating to the proposed development are summarised under Section 6 of this report. The proposal is considered to be consistent with the relevant SEPPs, including Growth Centres SEPP, SEPP (Infrastructure) 2007 and the 10 'design quality principles' of SEPP 65.</p> <p>The proposed development is a permissible land use within the R3 Medium Density Residential zone and satisfies the zone objectives outlined under the Growth Centres SEPP. The proposal does seek to vary the building height control by up to 1.8 m and variation to FSR by 0.03:1 under Clause 4.6 of the Growth Centres SEPP. The proposed variation is discussed in detail in Section 9 above and is considered satisfactory.</p> <p>The Growth Centres DCP applies to the site. The proposed development is compliant with all of the numerical controls established under the DCP, with the exception of setback requirements to the street and balcony dimensions. The variations are discussed in detail under Section 9 and are considered acceptable by council officers. Given that the non-compliances are considered minor, it is recommended that the development be supported in its current form.</p>	Yes

Heads of Consideration 79C	Comment	Complies
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	<p>An assessment of the key issues relating to the proposed development is provided under Section 9. It is considered that the likely impacts of the development, including traffic, noise, parking and access, bulk and scale, overshadowing, privacy, stormwater, waste management and the like, have been satisfactorily addressed.</p> <p>A thorough site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties. Appropriate measures, including CCTV, lighting and signage will also ensure that security and safety is maximised on and around the site.</p> <p>In view of the above it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.</p>	Yes
c. The suitability of the site for the development	<p>The subject site is zoned R3 Medium Density Residential with a 16 m building height limit pursuant to the Growth Centres SEPP. Residential flat buildings are permissible on the site with development consent.</p> <p>The site has an area and configuration suited to the form of development proposed. The design solution is based on sound site analysis and responds positively to the different types of land uses adjoining the site. The site's close proximity to the Schofields train station and Alex Avenue local centre, services, facilities and a major arterial road network also makes this a suitable site for higher residential densities.</p> <p>Whilst the existing area is currently large lot rural residential living, the site and surrounding area has been identified under the Alex Avenue rezoning for R3 Medium Density Residential.</p> <p>The site is therefore considered suitable for the proposed development.</p>	Yes
d. Any submissions made in accordance with this Act, or the regulations	8 submissions have been received regarding the proposal. It is considered that the issues raised do not warrant refusal of the application and in many instances can be addressed via suitable conditions of consent.	Yes
e. The public interest	It is considered that no adverse matters relating to the public interest arise from the proposal. The proposal provides high quality housing stock and provides for a wider range of housing diversity within the Blacktown City area.	Yes

12 Concluding comments

- 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, heritage, access, stormwater drainage, site contamination, salinity, social and economic impacts and the like, subject to the imposition of suitable conditions of consent to satisfactorily control the development.
- 12.3 The proposed variations to building height, floor space ratio, building setback and balcony dimensions are considered acceptable. The variations are considered satisfactory based on their merits, impact on adjoining properties and negligible impacts regarding solar access and privacy.

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.



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