

Report to Sydney West Central Planning Panel

Panel reference	2015SYW102 DA
DA number	JRPP-15-01170
Proposed development	6 x Residential flat buildings
Street address	134 Burdekin Road, Quakers Hill
Applicant/owner	Urban Link Pty Ltd (Applicant) H and W So (Owner)
Date of DA lodgement	22 May 2015
Number of submissions	1
Regional development criteria (Schedule 4A of the EP&A Act)	Capital investment value (CIV) over \$20 million (DA has CIV of \$107.1 million)
All relevant s79C(1)(a) matters	• State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • Blacktown City Council Growth Centre Precincts Development Control Plan 2010
Report prepared by	Melissa Parnis, Blacktown City Council
Report date	28 July 2017
Recommendation	Approval subject to conditions

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (Clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s94EF)? Yes

Conditions

Have draft conditions been provided to the applicant for comment? Yes

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ATTACHMENTS

Attachment 1	–	Location map and extracts from Alex Avenue Precinct Indicative Layout Plan
Attachment 2	–	Aerial image as of 16 May 2017
Attachment 3	–	Zoning extract
Attachment 4	–	Approved subdivision plan under DA-16-03680
Attachment 5	–	Detailed information about proposal and DA submission material
Attachment 6	–	Development application plans
Attachment 7	–	Assessment against planning controls
Attachment 8	–	Applicant's Clause 4.6 request
Attachment 9	–	Council assessment of Clause 4.6 request
Attachment 10	–	Draft conditions of consent

1 Executive summary

- 1.1 This report considers a proposal to construct 6 x 5 storey residential flat buildings containing 353 units at 134 Burdekin Road, Quakers Hill.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is considered satisfactory when evaluated against Section 79C of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions.

2 Key issues list

- 2.1 The key issues that need to be considered by the Panel in respect of this application are:
 - a. Building height variation (Section 8) - The applicant seeks a building height variation of 3.1 %. This is for plant and equipment up to 500 mm above the permissible height limit. The variation has been assessed and is considered acceptable on its merits.

- b. Internal amenity of apartments (Section 8) – Conditions of consent have been imposed to improve the solar access and natural ventilation to more units.
- c. Common open space (Section 8) – The development provides common open space equivalent to 21 % of the site area. The common open space provision complies with the Development Control Plan requirements, but is non-compliant with the Residential Flat Design Code requirement. The variation is acceptable as the development could comply by reducing the private open space terraces, however it is considered a better design outcome to provide these spaces as private open space.
- d. Matters raised by the objection (Section 9) – 1 submission was received, objecting to the initial proposed road deletion which would result in privacy and noise issues. The application was since modified to provide a road along a portion of the objector's property. The DA was re-notified and no submissions were received in response to the re-notification.

3 Location

- 3.1 The site is located within the Alex Avenue Precinct within the North West Priority Growth Area as identified by the Growth Centres SEPP. It is located within the suburb of Quakers Hill.
- 3.2 The location of the site is shown in **Attachment 1**. The land immediately to the north and east of the site is zoned R3 Medium Density Residential, with a building height limit of 16 m. The land that adjoins the site to the west is partly zoned SP2 Infrastructure (Drainage) and partly zoned R3 Medium Density Residential. The land to the south on the opposite side of Burdekin Road is zoned R2 Low Density Residential with a 9 m building height limit.
- 3.3 The site is located approximately 900 m south east of Schofields Station on the Richmond rail line. Part of the land between the site and Schofields Station has been identified as a neighbourhood centre.

4 Site description

- 4.1 The site was formerly used for agriculture and is currently vacant. The land's registered title is Lot 8 DP 652559.
- 4.2 The site is an irregular rectangular shaped corner allotment, with road frontages to Burdekin Road to the south and Pelican Road to the east. The total site area is 2.23 ha.
- 4.3 An aerial image of the site and surrounding area is at **Attachment 2**.

5 Background

- 5.1 On 17 May 2010, the site was rezoned to part R3 Medium Density Residential and part SP2 Infrastructure (Classified Road) under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The zoning plan for the site and surrounds is at **Attachment 3**. The site was previously zoned 1(a) General Rural under the Blacktown Local Environmental Plan 1988.
- 5.2 On 23 May 2017, Council issued a deferred commencement development consent for a 2 lot subdivision and associated local road construction and civil works on the site. The 2 lot subdivision will create the lots for the proposed residential flat buildings. This DA significantly delayed the subject DA for residential flat buildings as drainage and road

widening issues had to be addressed first. A copy of the approved subdivision plan is at **Attachment 4**.

- 5.3 The subject DA was lodged on 22 May 2015, which predates Amendment 3 of SEPP 65 that was published on 19 June 2015. Therefore, the proposal continues to be assessed under SEPP 65 before the amendment, and the previous Residential Flat Design Code (RFDC) applies.

6 The proposal

- 6.1 The Development Application (DA) has been lodged by Urban Link Pty Ltd for the construction 6 x 5 storey residential flat buildings. A total of 353 residential units are proposed, including 112 x 1 bedroom units, 192 x 2 bedroom units and 49 x 3 bedroom units.
- 6.2 The applicant proposes the construction of 2 basement levels of car parking with 455 car parking spaces. Two separate vehicle access points are proposed to the basements from the new western boundary road.
- 6.3 The maximum building height of the development is 16.5 m. The development exceeds the height limit by 500 mm over only limited portions of the buildings, above the maximum height limit of 16 m under the Growth Centres SEPP as outlined earlier. The proposed height variation is discussed in detail in Section 8 below.
- 6.4 The proposal has an FSR of 1.39:1, which is compliant with the maximum FSR of 1.75:1 permissible on the site under the Growth Centres SEPP.
- 6.5 The proposal provides for 6 m setbacks to public roads and adjoining properties.
- 6.6 Communal open space areas are separated into 4 internal area. They are between the buildings on each of the 2 development parcels. These areas are embellished with BBQs, seating, turfed areas, tree shaded areas and clothes drying areas.
- 6.7 The buildings have a strong vertical and horizontal frame with some modulation and articulation differentiating each building using different materials, colours and louvered shading devices. Neutral tones and colours are proposed with concrete, render and paint finishes, alucobond articulation elements and glass balustrades on balconies. The flat concrete roof lines of the buildings vary slightly in height across the site to reflect the undulating topography. The buildings present a contemporary design and assist in setting a high quality standard for the transitioning character of this locality and creates a desirable streetscape.
- 6.8 A Design Verification Statement prepared by registered architect, Joseph El Khawaja of Urban Link Pty Ltd, has been prepared for the development, in accordance with the requirements of SEPP 65.
- 6.9 Other details about the proposal are at **Attachment 5** and a copy of the development plans is included at **Attachment 6**.

7 Assessment against planning controls

- 7.1 A full assessment of the DA against relevant planning controls is provided in **Attachment 7**, including:
- Environmental Planning and Assessment Act 1979
 - State Environmental Planning Policy (State and Regional Development) 2011
 - State Environmental Planning Policy (Infrastructure) 2007

- d. State Environmental Planning Policy No. 55 – Remediation of Land
- e. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- f. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- g. State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- h. State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River
- i. Draft West Central District Plan
- j. Blacktown City Council Growth Centre Precincts Development Control Plan 2016.

8 Key planning issues assessment

8.1 Building height variation to the Growth Centres SEPP development standard

- a. The proposal seeks to vary the building height by up to 500 mm above the permissible height limit of 16 m, but only over limited parts of the buildings, being a variation of 3.1 %.
- b. The variations relate only to encroachments of lift overruns, stairs and plant rooms. No element of a habitable floor or room is located above the height limit. The 5 storey buildings are considered to be consistent with the 16 m height limit permissible on the site.

The rooftop plant and equipment and lift overruns are centrally located and will not be visible from the street. The additional 500 mm in height is therefore considered acceptable. The variation is considered to be substantially offset within the development site, with significant portions of the development up to 2 m below the maximum height limit.

The portions of the roof structures which exceed the height limit do not result in excessive bulk and scale and do not result in adverse shadow and amenity impacts on surrounding properties.

The additional height does not result in any additional yield and does not result in an additional residential storey.

The site contains a ridge, with a 5 m fall towards Burdekin Road to the south of the site and 2 m to the north of the site. The buildings have been designed in response to this constraint on the site, however to create level building platforms, minor point encroachments of the lift overruns have occurred. The majority of the development is at or below the 16 m height limit. Further, lowering of the building would result in subterranean apartments, which is not desired from an amenity perspective.

Given that the additional height does not result in any commercial gain for the developer (in terms of yield or number of storeys) and will result in a better designed building, it is considered that the proposed variation to the height standard should be supported in this instance.

- c. The applicant has submitted a written Clause 4.6 request to justify that compliance with the height development standard is unreasonable and unnecessary in this instance.

There are sufficient environmental planning grounds to justify varying this development standard. A copy of the applicant's written request is held at **Attachment 8**.

- d. Council officers consider that the variation will not have unreasonable impacts on the neighbouring properties or the character of the area. The proposal is also consistent with the objectives of the development standards and the R3 Medium Density Residential zone.

Attachment 9 identifies the Council officer assessment of the relevant Land and Environment Court matters for a consent authority to take into consideration when deciding whether to grant concurrence to the variation to the development standard.

8.2 Internal amenity of apartments

- a. The RFDC requires 70 % of units to achieve 3 hours of direct sunlight to living areas. The applicant has identified that 71.8 % of units receive direct sunlight, including units on the upper level that rely on skylights.

The north/south orientation of the site results in some buildings on the site causing overshadowing of some lower level apartments in buildings to the south. If assessed individually, the 70 % of apartments per building would comply. However, as the applicant has lodged a single DA, the entire site and the solar access impacts of all the buildings must be assessed together.

- b. Conditions are proposed to improve solar access for 12 units through the relocation of windows. This includes the provision of additional windows to improve cross ventilation.

8.3 Common open space

- a. The RFDC requires 25 % of the site area to be identified as common open space. This is equivalent to 4,407 sqm. The development does not comply with this requirement, providing only 3,552 sqm of common open space, which is equivalent to 21 % of the site area. However, the development does comply and exceed the numerical control of 15 % of the site area as required by the Growth Centres DCP. The variation to the RFDC control will not establish a precedent as previous Planning Panel applications at 828 Windsor Road, Rouse Hill (JRPP-14-15963) and Lot 16B Pelican Road, Schofields (JRPP-14-1907) have approved similar common open space areas of 20 % and 22 % of their site area respectively.
- b. The development could comply with the 25 % development standard by reducing the private open space terraces on the ground floor to create common open space areas with a minimum width of 3 m. However, this would result in potential safety concerns and spaces used for pedestrian movement, rather than usable common open space areas.
- c. Other reasons why the application of the DCP controls is considered reasonable in this circumstance include:
 - Clause 6A of SEPP 65 nominates design criteria within the new Apartment Design Guide that overrides a development control within a DCP. Common open space is not one of the nominated design criteria. Therefore, the DCP criteria for common open space can be applied to the development.
 - The development exceeds the minimum landscaped area requirement, providing 47 % of the site area as landscaped area, which is significantly more than the 30 % requirement under the DCP. This means the site has been suitably landscaped with plantings and deep soil.
 - Common open space areas are high quality large central areas embellished with benches, BBQs and pergola areas. Common open space areas include hard and soft landscaped areas that create spaces for the enjoyment of future residents.

- Large central embellished common open spaces that are a minimum 11 m wide, up to 20 m x 20 m spaces, are being created. Should areas be taken from the private open space areas to meet the numerical control for common open space, this would result in substandard areas as only a 3 m width is required to be included as common open space.

9 Issues raised by the public

- 9.1 The proposed development was notified to property owners and occupiers within the locality between 1 and 15 December 2015. The DA was also advertised in the local newspapers, including the Blacktown Sun, and a sign was erected on the site.
- 9.2 During the notification period, 1 submission was received from the adjoining property to the west of the site.
- 9.3 In response to objector concerns, the applicant was requested to amend its design, including the provision of a road partially along the boundary of the objector. Following the receipt of amended plans, the DA was re-notified between 20 June and 3 July 2016. No submissions were received in response to the re-notification.
- 9.4 The following comments are provided in response to the objector's concerns raised in the first notification:

- **Objection concern: Road deletion**

The objector was concerned that their principal place of residence and business premises, Quakers Hill Veterinary Hospital, are adjacent to the road that the development is seeking to delete. The road would increase privacy to the objector's property due to the units being setback from the road.

The lack of setback created by deleting the ILP road which would affect the privacy to the residence. The ILP road would also allow a sufficient sound barrier from the units to the existing residents.

Response:

- The initial DA sought to delete the road that ran parallel to the southern part of the objector's property. However, since the first notification, the DA was amended. A separate DA was lodged for the road creation and superlot subdivision. A cul-de-sac was introduced to partially run down the objector's property boundary.
- Council granted development consent to the superlot subdivision on 23 May 2017. The superlot DA and the amended version of this DA were notified at the same time and no submissions were received during the notification of this DA. The new cul-de-sac runs partially along the length of the objector's property. All buildings will be separated from the objector's dwelling by the road. The road was agreed to be modified as its location connecting to Burdekin Road was on the bend, which if developed would create an unsafe intersection. The partial deletion of the road increased the developable area by only 3.34 %.
- The proposal does seek approval for a building to be setback 6 m from the Veterinary Hospital on the site. However, it should be noted that the objector's site, including the location of their house and the Veterinary Hospital, is zoned SP2 Infrastructure (Drainage). Whilst these uses are current on that site, ultimately the objector's property will be purchased by Council and developed for drainage infrastructure.

- 9.5 The objection does not warrant refusal of the DA.

10 External referrals

10.1 The DA was referred to the following external authorities for comment:

Section	Comments
Roads and Maritime Services	Acceptable subject to conditions.

11 Internal referrals

11.1 The DA was referred to the internal sections of Council and is considered acceptable subject to conditions, based on the following:

- Concept engineering design meets Council's development standards
- Parking provision satisfies the DCP requirements
- Anticipated traffic movements due to the proposal are likely to be accommodated within the existing and proposed road network in the area
- Waste services vehicles can satisfactorily service the development.

12 Conclusion

12.1 The proposed development has been assessed against all matters for consideration and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

13 Recommendation

13.1 The Development Application be approved by the Sydney West Central Planning Panel subject to the conditions held at **Attachment 10**.

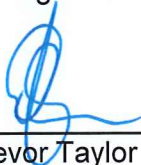
13.2 The submitter be notified of the Planning Panel's decision.



Melissa Parnis
Assistant Team Leader, Projects



Judith Portelli
Manager Development Assessment



Trevor Taylor
Acting Director Design and Development