

## Blacktown City Council assessment report Sydney West Central Planning Panel

Panel Reference	2015SYW211 DA
DA Number	JRPP-15-02480
LGA	Blacktown City Council
Proposed Development	2 x Residential Flat Buildings
Street Address	Lots 15A and 15B within the subdivision of 54 Pelican Road, Schofields
Applicant/Owner	Universal Property Group Pty Ltd
Date of DA lodgement	6 November 2015
Number of Submissions	0
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital investment value (CIV) over \$20 million (it has a CIV of \$32.4 million)
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>• Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</li> <li>• Blacktown City Council Growth Centre Precincts Development Control Plan 2010</li> </ul>
List all documents submitted with this report for the Panel's consideration	Council officer assessment report
Report prepared by	Blacktown City Council
Report date	1 February 2017

### 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 summarized, in the Executive Summary of the assessment report? Yes  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### 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  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment? Yes  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## Assessment Report

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### ATTACHMENTS

Attachment 1	– Draft conditions of consent
Attachment 2	– Applicant's Clause 4.6 request for variation
Attachment 3	– Development application plans
Attachment 4	– Assessment of compliance with SEPP 65 design principles and the Apartment Design Guide
Attachment 5	– Assessment of compliance with the Growth Centres SEPP 2006
Attachment 6	– Assessment of compliance with the Growth Centre Precincts Development Control Plan 2010



## 1 Executive summary

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- 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 2 x 5 storey residential flat buildings containing 171 units on proposed Lots 15A and 15B within the subdivision of Lot 15 DP 31797, 54 Pelican Road, Schofields.
- 1.2 The proposed development constitutes 'regional development' requiring referral to the Sydney Planning Panel (SPP), as it has a capital investment value of \$32.4 million. While Council is responsible for the assessment of the DA, the SPP is the consent authority.
- 1.3 The site is zoned R3 Medium Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP). The site is within the Alex Avenue Precinct Plan area. 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 Centre DCP) 2010. The development complies with the development standards contained within the SEPP and DCP with the exception of building height.
- 1.5 The applicant has lodged a request under Clause 4.6 for variation to the building height development standard under the Growth Centres SEPP. The building height is varied by up to 1.46 m above the permissible height limit of 16 m on some parts of the buildings, representing a variation of 9.1%. The variation is considered acceptable as the additional height relates to a portion of the roof structure and rooftop plant and equipment only. The roof structure and rooftop plant and equipment is visually imperceptible, does not result in excessive bulk and scale, and does not result in adverse shadow and amenity impacts on surrounding properties. The variation is also substantially offset within the development site, with portions of the development up to 2.5 m below the maximum height limit. The height variation does not result in additional floor levels.
- 1.6 The proposal is consistent with the objectives of SEPP 65 and satisfactorily achieves the 9 'design quality principles' listed under Schedule 1 of the SEPP. The development complies with the numerical recommendations of the Apartment Design Guide (ADG).
- 1.7 The proposed development was notified to property owners and occupiers within the locality between 30 March and 13 April 2016. The DA was also advertised in the local newspapers and a sign was erected on site. As a result of the notification process, no submissions were received.
- 1.8 The proposal has been assessed against relevant clauses within the applicable environmental planning instruments. The development is considered to satisfy all relevant clauses. A detailed assessment is undertaken in Section 6 of this report.
- 1.9 The development is considered satisfactory with regard to relevant matters such as siting and design, bulk and scale, privacy, amenity, overshadowing, 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.
- 1.10 It is recommended that the proposed development be approved subject to the conditions at Attachment 1.

## 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. This site is located within the suburb of Schofields.
- 2.2 The location of the site is shown in Figure 1 below. The land immediately to the north, west and partly to the south of the site is zoned R3 Medium Density Residential, with a building height limit of 16 m. A portion of the site adjoins the SP2 Infrastructure (Drainage) zone to the south. To the east of the site, the development 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 710 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 constructed Woolworths and approved Coles supermarkets.
- 2.4 The existing locality is 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 recently approved within the locality.

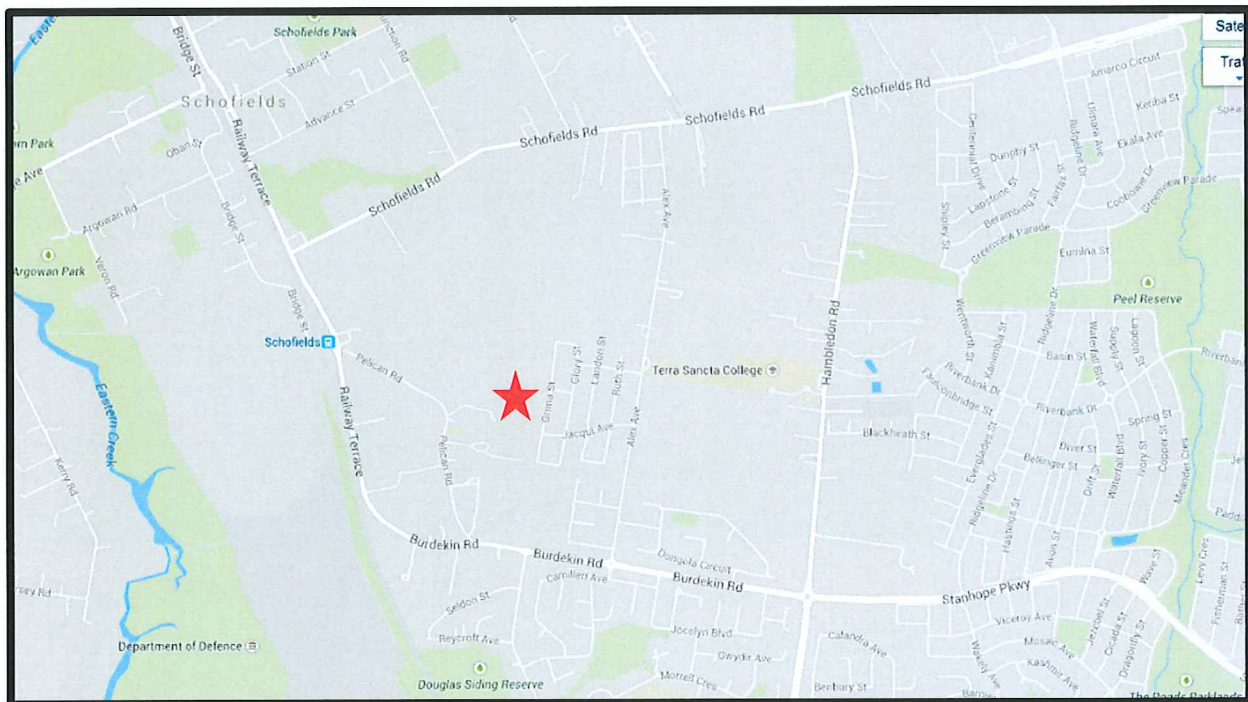


Figure 1 Location map (Source: Google maps 2016)





**Figure 2** Extract from Alex Avenue Indicative Layout Plan (Source: Department of Planning 2010)

### 3 Site description

- 3.1 The site is a proposed lot within a larger allotment, known as Lot 15 DP 31797, Pelican Road, Schofields. Proposed Lots 15A and 15B will be created through the subdivision of the lot approved by DA-14-911, which is yet to be registered at Land Property Information.
- 3.2 Proposed Lots 15A and 15B have a regular configuration, with 2 local road frontages to the east and west of the site and 1 collector road frontage to the south. The site has boundary dimensions of 163 m to the north, 48 m to the east, 46 m to the west and 103 m to the south. The total site area of Lots 15A and 15B is 9,720 sqm.
- 3.3 The site is vacant land previously used for rural purposes.





Figure 3 Aerial image as of 18 July 2016 (Source: Nearmap 2016)

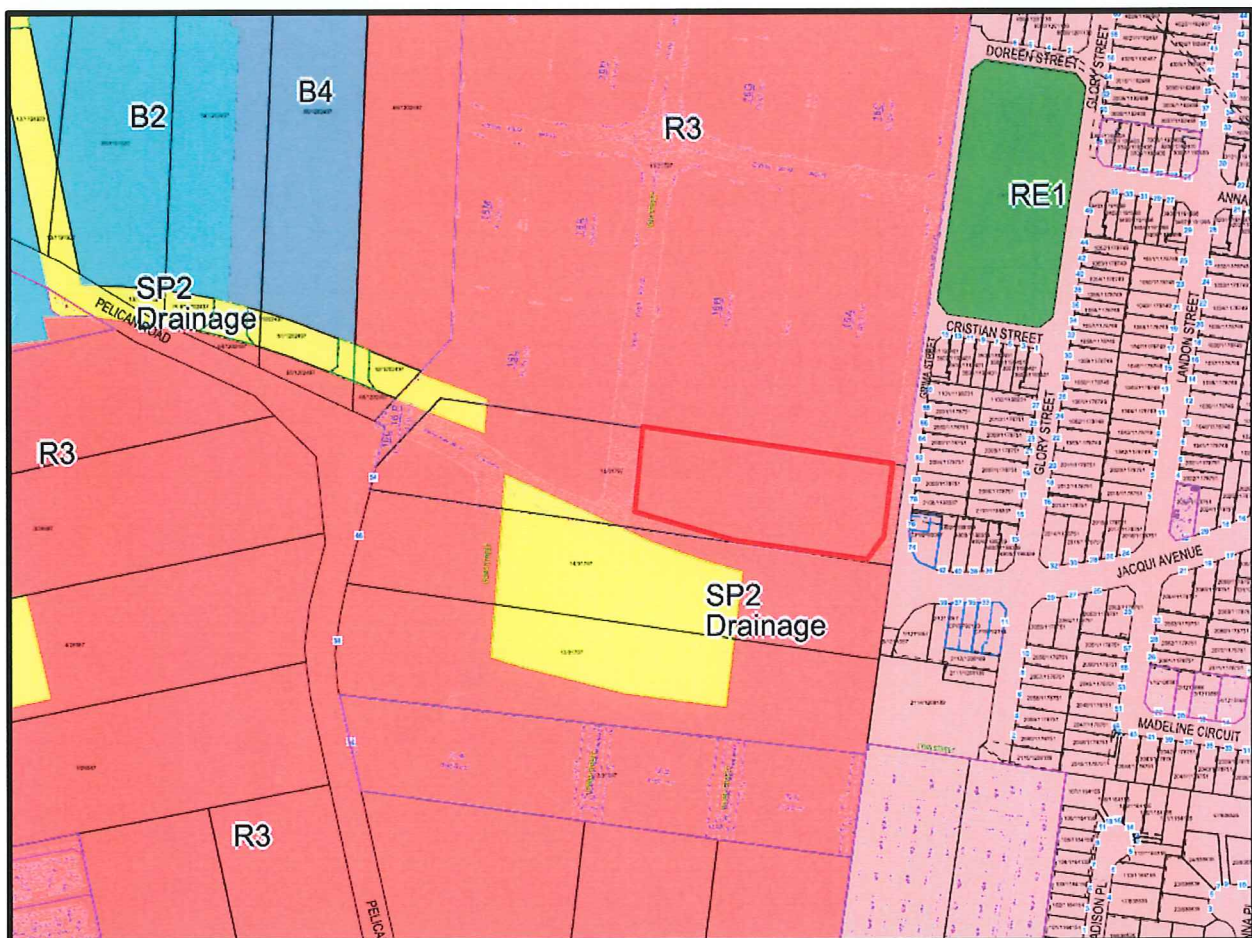
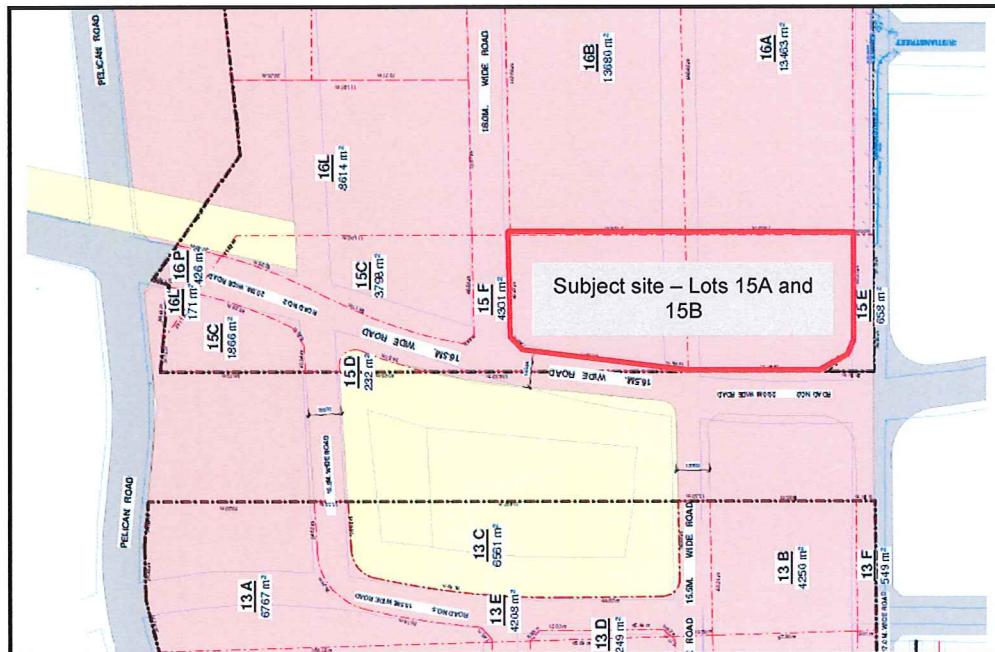


Figure 4 Zoning extract (Source: BCC 2016)



## 4 Background

- 4.1 On 17 May 2010, the site was rezoned to R3 Medium Density Residential and SP2 Infrastructure (Drainage) under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The site was rezoned from its previous 1(a) General Rural zoning under the 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 17 April 2015, Council approved DA-14-911 for the subdivision of the land. This included Torrens title subdivision into 3 residential superlots, 1 residue lot and road construction, with a road pattern variation to facilitate future development of the lots.



**Figure 5 Approved subdivision plan under DA-14-911 (Source: Universal Property Group 2014)**

- 4.3 On 6 August 2014, Universal Property Group Pty Ltd lodged a Development Application (JRPP-14-1519) for the construction of 4 x 5 storey residential flat buildings for a total of 270 units on the proposed lot to the immediate north 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 has since approved the DA.
- 4.4 On 26 May 2015, the Sydney West Joint Regional Planning Panel approved the construction of 6 residential flat buildings containing a total of 216 units, basement car parking and landscaping on proposed Lot 16B in the resubdivision of Lot 16 DP 31797 (as approved by DA-14-912).

## 5 The proposal

- 5.1 The Development Application (DA) has been lodged by Universal Property Group Pty Ltd for the construction of 2 x 5 storey residential flat buildings on proposed Lots 15A and 15B. The development has a capital investment value of \$32,429,000.
- 5.2 A total of 171 residential units are proposed, including 4 x studios, 40 x 1 bedroom units, 78 x 2 bedroom units and 49 x 3 bedroom units.

5.3 In summary, the 171 residential units are proposed in the 2 new buildings as follows:

Building	AB	CD	Total
Studio	4	-	4
1 bed	19	21	40
2 bed	46	32	78
3 bed	22	27	49
Total	91	80	171

5.4 The maximum building height of the development is 17.46 m. The development seeks an exceedance of 1.46 m over only limited portions of the buildings above the maximum height limit of 16 m under the Growth Centres SEPP. The maximum variation sought is equivalent to a 9.1% variation to the development control. The applicant has lodged a Clause 4.6 variation to the development standard for the consideration of the consent authority. The applicant's written Clause 4.6 request and height limit diagram is held at **Attachment 2**. Council's assessment of the variation is undertaken in Section 7 below.

5.5 The proposal has an FSR of 1.75:1, which is compliant with the maximum FSR of 1.75:1 permissible on the site under the Growth Centres SEPP.

5.6 The proposal provides for 6 m setbacks to public roads and setbacks of between 6 m and 12 m to the adjoining R3 zoned land.

5.7 The DA provides for 2 levels of basement car parking for a total of 231 car parking spaces. The basement provides:

- 196 resident car parking spaces, with a surplus of 6 spaces
- 35 visitor car parking spaces
- 1 car wash bay
- 57 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 1 new vehicle access point to proposed Road No. 1 on the western side of the development. The basements will be connected to each other.

5.9 The development provides for a central communal open space area at ground level, internally shared amongst all units, as well as rooftop common open space areas for each building. In addition, each building is provided with its own embellished communal open space courtyard central to each building. The communal open space has a total area of 3,114 sqm. The common landscaped areas will be embellished with seating, water features, pathways, pergolas and appropriate plantings. 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 buildings have been stepped down across the site as a response to the slope of the site. The buildings have been modulated and articulated to reduce apparent bulk. The proposed development has a massing concept of solid walls with articulated windows and vertical grouping of balconies. Additional building elements at corners have been provided as architectural features to the development. Balconies incorporate feature elements used on the façade treatment, with a mix of concrete and aluminium framed glass balustrades. The development proposes a variety of external colours and finishes,



including painted render finishes and aluminium framed windows. Concrete feature elements in orange and green are randomly dispersed through different elements of the façade to break up the repetition of the balconies. Powdercoated aluminium louvered screens in grey and silver are provided to balconies to address amenity concerns in relation to privacy and solar access. In addition, a condition will be imposed requiring the addition of alucabond or similar aluminium finishes to be incorporated into the façade as feature elements.

- 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 Design Verification Statement identifies that the buildings have been arranged on the site in response to the site controls and surrounding context. The individual buildings are articulated with a variety of architectural elements to create an appropriate massing and legibility of scale. The building orientation and façade elements are implemented with a climate control strategy, including solar access, light penetration and provision of natural cross ventilation for individual apartments. Council officer assessment of the design principles established within SEPP 65 is undertaken in Section 6.
- 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 50 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.

The report has also undertaken an assessment of the required car parking for the proposal in light of the development controls established by the Growth Centre DCP. The development proposal necessitates an off-street car parking requirement of 230 parking spaces and the proposed development makes provision for a total of 231 off-street spaces. The report also concludes that the geometric design layout of the proposed car parking facilities have 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.

The report has reviewed the access locations and the proposed loading and servicing provision and concludes that the proposed development will not have any unacceptable parking or loading implications.

- 5.13 A full assessment of the proposal against the relevant planning controls is provided in Section 6, while a copy of the development plan is included at Attachment 3.

## 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' refer to Section 10.

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

The Sydney Planning Panel (SPP) is the consent authority for all development with a capital investment value (CIV) of over \$20 million. The DA has a CIV of

\$32,429,000. While we are responsible for the assessment of the DA, determination of the application is to be made by the SPP.

**(c) State Environmental Planning Policy (Infrastructure) 2007**

SEPP (Infrastructure) 2007 ensures that the Roads and Maritime Services (RMS) is given the opportunity to comment on development nominated as 'traffic generating development' under Schedule 3 of the SEPP.

The proposed development does not have more than 300 dwellings and does not have access within 90 m of a classified road. Therefore, the development is not classified as 'Traffic generating development to be referred to RMS' under the SEPP.

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

*i. Clause 7 Contamination and remediation to be considered in determining development application*

SEPP 55 aims to 'provide a State wide planning approach to the remediation of contaminated land'. Clause 7 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent.

The subdivision DA (DA-14-911) addressed contamination concerns on the site. A preliminary contamination assessment by Geotechnique Pty Ltd was prepared and identified that the site can be made suitable for the proposed residential apartment development, subject to further sampling and preparation of a Remediation Action Plan to remediate potentially contaminated topsoil followed by appropriate validation. To ensure these works are undertaken prior to the release of a Construction Certificate on the site for the proposed residential flat buildings, suitable conditions will be imposed to address these matters and to ensure that the site is made suitable for residential development without any limitations.

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

State Environmental Planning Policy No. 65 (SEPP 65) – *Design Quality of Residential Apartment Development* applies to the assessment of development applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.

*i. Clause 28 Determination of development applications*

Clause 28 of SEPP 65 requires a consent authority to take into consideration:

- The advice (if any) obtained from the design review panel,
- The design quality of the development when evaluated in accordance with the design quality principles, and
- The Apartment Design Guide (ADG).

Blacktown City Council does not have a design review panel. However, Council's assessing officer's comments in relation to the 9 design quality principles and assessment against the relevant design concepts and numerical guidelines of the ADG is held at Attachment 4. The development complies with the 9 design principles and the ADG.



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

A BASIX certificate has been lodged as part of the DA, as well as a NatHERS (Nationwide House Energy Rating Scheme) assessor certificate. The BASIX certificate indicates that the development has been designed to achieve the required water, thermal comfort and energy scores. A suitable condition will be imposed requiring compliance with the submitted BASIX certificate.

**(g) State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

Appendix 4 Alex Avenue and Riverstone Precinct Plan applies to the site as it is located within the Alex Avenue Precinct. Attachment 5 provides an assessment of the development standards established within the Growth Centres SEPP and the proposal's compliance with these standards. The development complies with the development standards contained within the SEPP with the exception of building height.

*i. Clause 2.3 Zone objectives and land use table*

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The subject site is zoned R3 Medium Density Residential under the Growth Centres SEPP. A residential flat building, defined as a building containing 3 or more dwellings, but does not include an attached dwelling, a manor home or multi dwelling housing, is permissible within the zone with consent. The proposal is defined as a residential flat building and the development meets the objectives of the zone.

*ii. Clause 4.6 Exceptions to development standards*

Consent must not be granted for development that contravenes a development standard unless:

The consent authority is satisfied that the applicant has made a written request that has adequately addressed the matters required to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The consent authority must also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular zone.

The applicant is seeking an exemption under Clause 4.6 to the height development control. A copy of the applicant's Clause 4.6 variation request is provided at Attachment 2, while an assessment against the development standards is discussed in detail in Section 7.

*iii. Clause 6.1 Public utility infrastructure*

The consent authority must not grant development consent to development on land to which the Precinct Plan applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available, or that adequate arrangements have been made to make that infrastructure available when required.

Council has received confirmation from Sydney Water and Endeavour Energy that drinking water, sewerage and electricity are available in the Alex Avenue Precinct. In addition, suitable conditions will be imposed requiring a Section

73 Certificate and a Notification of Arrangements prior to the release of an Occupation Certificate.

**(h) Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP 20)**

*i. Clause 4 – Application of general planning considerations, specific planning policies and recommended strategies*

A consent authority must take into consideration the general planning considerations set out in Clause 5 of SREP 20 and the specific planning policies and recommended strategies in Clause 6 of SREP 20. The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Growth Centres SEPP. The development complies with the development standards and controls established within the Growth Centres SEPP, to enable the orderly development of the site. Therefore, the proposal is considered to satisfy Clause 4 of SREP 20.

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

The Growth Centre DCP applies to the site. Attachment 6 provides a table that outlines the proposal's compliance with the DCP. The development complies with the development standards.

6.2 Council's assessing officers consider the development to satisfy relevant clauses within applicable environmental planning instruments.

## 7 Assessment

### 7.1 Variation to the Growth Centres SEPP development standard

**(a) Building height variation**

The proposal seeks to vary the building height by up to 1.46 m above the permissible height limit of 16 m, but only over limited parts of the 2 buildings, being a variation of 9.1%. The variations sought are as follows:

Part block	Building element	Maximum height	Variation sought (%)
<b>Building 1</b>			
A	Roof parapet	17.46 m	1.46 m (9.13%)
B	Lift and Pergola	17 m	1 m (6.25%)
<b>Building 2</b>			
C	Roof parapet	16.68 m	0.68 m (4.25%)
D	Roof Pergola	17.07 m	1.07 m (6.69%)

The variations relate only to point encroachments to minor portions of the roof parapet, pergolas in the common open space and rooftop plant and equipment. The height variation does not result in additional floor levels or additional floor space. 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 overrun are centrally located and would not be visible from the street. The additional 1.46 m in height is therefore considered acceptable. The variation is considered to be substantially offset within the development site, with portions of the development up to 2.5 m below the maximum height limit.



The portion of the roof structures which exceeds the height limit do not result in excessive bulk and scale and do not result in adverse shadow and amenity impacts on surrounding properties. Shade structures are considered to improve the amenity of future residents, and the rooftop feature pergolas are considered to have architectural merit.

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

The site has a 6.5 m fall from the north-east to the south-west portion 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 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.

**(b) Clause 4.6 – variations to the development standards**

The applicant has submitted a request for variation to the above development standard pursuant to Clause 4.6 of the Growth Centres SEPP. The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from the development by allowing flexibility in particular circumstances.

Clause 4.6 requires consideration of the following:

1. *Has the applicant submitted a written request 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?*
2. *Is the proposed development 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?*
3. *Has the concurrence of the Director-General been obtained?*

The applicant's written request has adequately justified 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 2.

The variation will not have unreasonable impacts on 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.

In accordance with Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, a consent authority, in this case the Panel, has 'assumed

concurrence' from the Secretary (formerly the Director-General) of the Department of Planning and Environment.

**(c) Justification for the variations**

The Land and Environment Court has established the following 5-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**

Height

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 provides a high quality urban form.*

- **Maximum height**

The maximum height limit on the site is 16 m. Although the development exceeds the permissible height by up to 1.46 m, the development does not achieve an additional residential level. The increase in height therefore does not impact on the density / floor area of the development. The increased height also has no impact on the scale of the development. The additional height simply accommodates the roof structure and rooftop services.

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

The additional shadow impacts are negligible. The overshadowing caused by the non-compliance is due to the rooftop plant and equipment which is captured within the roof space itself. The additional height does not result in any adverse visual impact given it is visually imperceptible.

- **Facilitates higher density development in and around the local centre while minimising impacts on adjacent residential, commercial and open space areas**

The site is located 710 m from Schofields railway station and the local centre. The site does adjoin low density residential land to the east, however, the site is separated by a 17 m wide road. The height exceedance is also considered to have a negligible impact on adjoining residential land as Block A is in closest proximity to low density residential, and is located on the highest part of the site. As building height is measured from existing ground levels, the height variation is worse at this point. However, the building



represents 5 storeys, and is 16 m in height when measured from the ground floor to the top of the roof parapet.

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

The site is considered suitable for the development given its proximity to the Schofields train station and Local Centre. The additional height does not result in any additional yield and does not result in an additional storey. The proposed number of storeys is suitable given its proximity to transport and the retail and commercial centre.

The objectives of the development standard are achieved as the development is representative of the building height anticipated for land near the Alex Avenue Local Centre and does not result in a bulky appearance. The interesting and varied design elements used throughout the development assist with ensuring that it is consistent with the desired future character of the immediate locality. Therefore, this minor variation to building height is considered acceptable in this circumstance.

**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 this circumstance is considered unreasonable.

**3. The underlying objective 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 not required. However, 100% compliance is considered unreasonable as the variation is acceptable based on merit. The objectives of the standard, as outlined above, will still be achieved despite the variations.

**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 Area 20 Precinct of the Growth Centre. JRPP-14-00091 approved in December 2014 for the construction of 4 x 4 storey residential flat buildings included a variation to the 12 m height limit, being 500 mm or 4.6% for the plant and equipment on the rooftop.

JRPP-14-01907 approved in May 2015 for the construction of 6 x 5 storey residential flat buildings included a variation of up to 11.25% to the 16 m height limit. However the variation is also as low as 1.25% because of the slope of the land. The variation involved a 1.8 m change to the roof height.

Variations to the roof structure and lift overruns are consistent with deviations considered elsewhere within the Growth Centre.

**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. Further, given the greenfield context of the site, the topography of the land must be considered. The existing levels on the site result in a 6.5 m fall from the north-east to the south-west portion of the site. As site benching and earthworks are required to meet civil grades and construction of the surrounding road network, compliance would be unreasonable in the circumstances.

Based on the above assessment, the requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.

## 8 Internal referrals

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

Section	Comments
Engineering	No objection subject to conditions.
Building	No objection subject to conditions.
Traffic Management Services	No objection subject to conditions.
Waste Services	No objection subject to conditions.
City Architect	<p>Council's City Architect raised a number of concerns with the original DA plans with regard to:</p> <ul style="list-style-type: none"> <li>i. Building height</li> <li>ii. Provision of deep soil zones in common open space areas</li> <li>iii. Visual relief to the blank wall basement ramp.</li> </ul> <p>In response to these concerns, the applicant submitted amended plans which satisfactorily resolved these concerns and no objection is now raised by the City Architect.</p>

## 9 Public comment

9.1 The DA was notified to property owners and occupiers within the locality between 30 March and 13 April 2016. An advertisement was also placed in the local newspaper and a notification sign was displayed on site.

9.2 In response to the public notification, no submissions were received.

## 10 Section 79C consideration

10.1 Consideration of the matters prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* is summarised below:

Heads of Consideration 79C	Comment	Complies
<p>a. The provisions of :</p> <ul style="list-style-type: none"> <li>(i) Any environmental planning instrument (EPI)</li> <li>(ii) Any development control plan (DCP)</li> <li>(i) The regulations</li> </ul>	<p>The provisions of the relevant EPIs relating to the proposed development are summarised under Section 6. The proposal is considered to be consistent with the relevant EPIs, including the Growth Centres SEPP 2006, SEPP (Infrastructure) 2007, SEPP 55 Remediation of Land, SEPP BASIX 2004 and the 9 '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 is consistent with the Alex</p>	Yes



Heads of Consideration 79C	Comment	Complies
	<p>Avenue Precinct Plan, with the exception of the development standard for building height. The applicant has submitted a request to vary this development standard pursuant to Clause 4.6 of the Growth Centres SEPP. The height control is varied by up to 1.46 m.</p> <p>The proposed variation is discussed in detail in Section 7 and is considered satisfactory.</p> <p>The Growth Centre DCP applies to the site. The proposed development is compliant with the numerical controls established under the DCP.</p>	
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	<p>An assessment of the key issues relating to the proposed development is provided under Section 7. It is considered that the likely impacts of the development, including traffic, noise, parking and access, bulk and scale, overshadowing, privacy, amenity, waste management, stormwater management and the like have been satisfactorily addressed.</p> <p>A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties.</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 under the Growth Centres SEPP. Residential flat buildings are permissible on the site with development consent.</p> <p>The site has an area and configuration that is suited to this form of development. The design solution is based on sound site analysis and responds positively to the different types of land uses adjoining the site. The site is located within close proximity to the Schofields train station and Local Centre. The proposal is consistent with the Alex Avenue Precinct Plan.</p>	Yes
d. Any submissions made in accordance with this Act, or the regulations	No submissions were received as a result of notification.	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 housing diversity within the Alex Avenue Precinct.	Yes

## 11 Concluding comments

11.1 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.

11.2 The proposal is consistent with the objectives of the Growth Centres SEPP 2006 and the R3 Medium Density Residential zone and is permissible in the zone with development consent. The development addresses the main requirements of the Growth Centre DCP

2010, and is considered satisfactory with regard to relevant matters such as siting and design, bulk and scale, privacy, amenity, overshadowing, access, traffic impacts, parking and stormwater drainage, site contamination and economic impacts and the like, subject to the imposition of suitable conditions of consent to satisfactorily control the development.

- 11.3 The proposed variation to the principal development standard of height of buildings under the Growth Centres SEPP will not result in any commercial gain for the developer (in terms of yield or number of storeys) and will be visually imperceptible. The requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.

## **12 Recommendation**

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- 12.1 The development application be approved by the Sydney West Central Planning Panel subject to the conditions held at Attachment 1.



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