

Report to the Sydney Central City Planning Panel

Development application

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| DA number | JRPP-16-03306 | Date of lodgement | 31 March 2016 |
| Applicant | Brooks Projects Architects | | |
| Owner | Li and Qing Unit Trust | | |
| Proposed development | Construction of a part 3 and part 4 storey residential flat building containing 106 apartments, 2 levels of basement car parking, associated landscaping and stormwater drainage works | | |
| Street address | Grange Avenue, Marsden Park (proposed lot 7 approved by DA-15-02309 currently lot 9 DP 802880) | | |
| Notification period | 26 April 2016 (14 days) | Number of submissions | 1 |

Assessment

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| Panel criteria (section 9.1 Direction, EP&A Act) | Capital investment value (CIV) over \$30 million (DA has CIV of \$23,294,004 million) |
| Report prepared by | Bertha Gunawan |
| Report date | 12 July 2018 |
| Recommendation | Deferred commencement approval subject to conditions listed in attachment 7. |

Attachments

1. Location map
2. Aerial image as of June 2018
3. Zoning extract
4. Detailed information about proposal and DA submission material
5. Development application plans
6. Assessment against planning controls
7. Summary of objector's concerns and our response
8. Report to Council on 27 June 2018 for adoption of Planning Proposal
9. Draft conditions of consent

Checklist

Summary of section 4.15 matters

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| Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the assessment report? | Yes |
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Legislative clauses requiring consent authority satisfaction

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| 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 |
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Clause 4.6 Exceptions to development standards

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| 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? | NA |
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Special Infrastructure Contributions

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| Does the DA require Special Infrastructure Contributions conditions (section 7.24)? | Yes |
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1. Executive summary

- 1.1. The key issues that need to be considered by the Panel in respect of this application are:
 - Location, design and provision of communal open space;
 - Reduced separation distance under the ADG for Level 1 (ground) between internally facing balconies; and
 - Reduced street setbacks from 6 m to 4.5 m
- 1.2. Assessment of the application against the relevant planning framework and consideration of matters by our technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3. The application is therefore satisfactory when evaluated against Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended)
- 1.4. This report recommends that the Panel approve the application subject to a deferred commencement condition which seeks to resolve plan inconsistencies, unresolved design issues surrounding the functionality and useability of the communal open spaces, and accurate revision of the landscape design including improvements to the interface between public and private areas and correct terrace/deck locations. The Panel approve the application subject to a Deferred Commencement including conditions as recommended and listed in attachment 8.

2. Location

- 2.1. The site is located at Grange Avenue, Marsden Park. The land is former semi-rural land with low density residential development and some rural lands uses such as Baiada Poultry to the north and Riverland Sand and Soil to the west.
- 2.2. The land is located in the North West Growth Centre and was released for development on 5 April 2013 under the terms of State Environmental Planning Policy (Sydney Region Growth Centres) 2006, (Growth Centres SEPP) as part of the Marsden Park Precinct.
- 2.3. The location of the site is shown at attachment 1.
- 2.4. The site is located between Richmond Road to the west and Fermoy Road to the east. This locality will experience significant transition from rural/residential land to medium density residential development once the density under the Growth Centres SEPP is realised.

3. Site description

- 3.1. The proposed building is to be constructed on Lot 7 created from a recent subdivision of consolidated Lots 5 and 9-13 at No. 210 Grange Avenue, Marsden Park. A development application for that subdivision was approved on 6 July 2017 (DA-15-02309).
- 3.2. Proposed Lot 7 is to be a rectangular shaped lot with a frontage of 59 m to Grange Avenue and a depth of 81.55 m, which results in a site area of 5,182 m².
- 3.3. This section of the site comprises vacant undeveloped land. It has a fall from the street to the rear of approximately 3 m. There are no significant trees on the site identified for retention.
- 3.4. An aerial image of the site and surrounding area is at attachment 2.

4. Background

- 4.1. On 30 April 2015, a pre-lodgement meeting was held between Council officers, the applicant and the applicant's representatives, in discussion of the subject development, together with 3 other residential flat buildings on the subject site (which have been lodged with Council under 3 separate Development Applications), as well as multi dwelling housing developments. This site is zoned R2 Low Density Residential, R3 Medium Density Residential and RE1 Public Recreation. The meeting minutes note that a Planning Proposal would be required to vary the location of the RE1 Public Recreation zoned land and, as such, a related DA would not be accepted until the Planning Proposal was lodged with Council.
- 4.2. The Growth Centres SEPP, which came into force on the 28 July 2006, applies to the development of land in the North West Growth Centre. Land in the Marsden Park Precinct was released for development by amendment to the Growth Centres SEPP on 8 May 2013 which inserted Appendix 12 – The Blacktown Growth Centre Precincts plan and contained provisions for development within the Precinct. The land the subject of this application is zoned R3 Medium Density Residential, with a permitted maximum building height of 14 metres. The zoning plan for the site and surrounds is at attachment 3.
- 4.3. On 6 July 2017, Council issued Deferred Commencement Consent to Development Application No. 15-02309 for staged Torrens Title subdivision and provision of new roads on Lots 5 and 9 – 13 DP 802880 Excelsior Avenue (formerly Vine Street) and Grange Avenue, Marsden Park, as follows:
 - Stage 1 to create 1 public reserve lot and 12 residue lots (see plan at attachment 1)
 - Stage 2 to further subdivide:
 - Lots 1, 3, 8, 9, 10 and 11 into 72 dwelling lots with Building Envelope Plans
 - Lot 2 into 10 conventional lots
 - Lot 12 as a residue lot for future multi dwelling housing, subject to a separate DA.
 - Stage 2 is located to the east and south of the proposed park and has no bearing on this application.
- 4.4. The Deferred Commencement condition for that subdivision requires that a Planning Proposal be submitted to Council, to amend the zone as a result of the RE1 zoned land being located a further 27 m to the east of its current location. This Planning Proposal is intended to make the R3 zoned land on the western side of the original park zone wider and more developable for residential flat buildings, which are subject to separate DAs currently under consideration. This amendment will facilitate alterations to the R2 and R3 zoned lands, but not for this part of the site which remains R3 zoned land and can be developed independently.
- 4.5. We requested the applicant to submit the Planning Proposal and for it to be sufficiently progressed by the Department of Planning and Environment (DPE) so as to give effect to the zone boundary variations approved at subdivision stage. This will give certainty to purchasers that they will be purchasing residential land and not land zoned for open space.
- 4.6. On 28 October 2017, the Deferred Commencement Consent for the subdivision was activated, following the lodgement of the Planning Proposal.
- 4.7. Lot 7 is one of the 12 residue lots approved under Stage 1, and is the subject of this Development Application, which was lodged before the Planning Proposal was lodged with Council.

- 4.8. The Planning Proposal was reported to Council following exhibition on 27 June 2018. The Planning Proposal was adopted and will be forwarded to the NSW Department of Planning and Environment for publication. A copy of that report is provided at attachment 8.
- 4.9. The application was lodged with Council on 31 March 2016 and due to the planning proposal and requests for further information, this application has been delayed for some time. Some information was still outstanding at the time of completing this assessment report and consequently a 'deferred commencement' recommendation is made allowing final outstanding matters to be resolved without further delay to the application's consideration by the Panel.

5. The proposal

- 5.1. The development application has been lodged by Peter Brooks Architects.
- 5.2. The applicant proposes the construction of a part 3 storey and part 4 storey residential flat building containing 106 residential apartments over two basement levels containing 145 car parking spaces. The apartments comprise 29 x 1 bedroom (27.3%), 62 x 2 bedroom (58.4%) and 15 x 3 bedroom (14.1%) apartments, 11 of which are to be adaptable dwellings.
- 5.3. Other details about the proposal are at attachment 4, including the SEPP65 Assessment, and a copy of the development plans is included at attachment 5.

6. Assessment against planning controls

- 6.1. A full assessment of the development application against relevant planning controls is provided at attachment 6, including:
 - Environmental Planning and Assessment Act 1979 (as amended 2018)
 - State Environmental Planning Policy (State and Regional Development) 2011
 - State Environmental Planning Policy (Infrastructure) 2007
 - State Environmental Planning Policy No. 55 – Remediation of Land
 - State Environmental Planning Policy (Sydney Region Growth Centres) 2006
 - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
 - Central City District Plan
 - Blacktown City Council Growth Centre Precincts Development Control Plan 2016

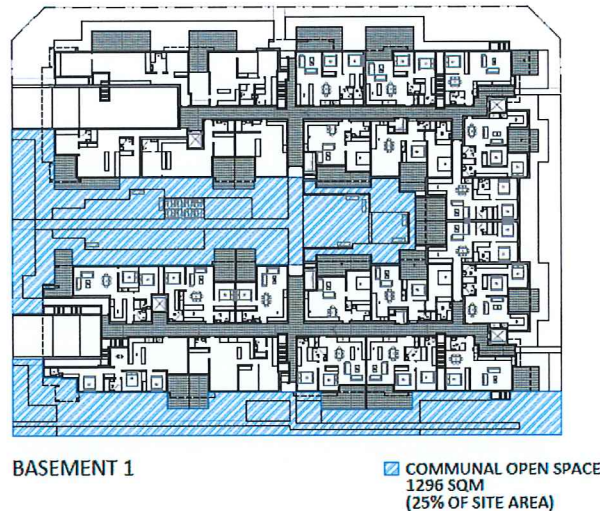
7. Key issues

7.1. Compliance with the Apartment Design Guide

7.1.1 Communal Open Space

- Location and provision of Communal open space is divided between a centrally located area of 768 m² and an area on the western side of the building of 420 m². An extract of the communal open space location as submitted by the applicant as part of the ADG assessment report is provided below. The applicant indicates that the blue shaded areas form part of the communal open space, achieving 25% compliance. However, the useability is questionable given the location of some areas along the street frontage,

adjoining the basement car parking access and in the case of the western COS, it is located at the back of the building away from many of the apartments within the side setback.



- This issue was raised with the applicant as it was considered to be poorly located and undersized if correctly marked on the plan in relation to the central open space which adjoins the street. In relation to the western open space it appears to meet a landscaping and setback function, rather than a well-designed and useable communal open space as intended by the ADG. The amount of useable communal open space is more like 955 m² (18.3%) if the portions of the COS forward of the building line to Grange Avenue and proposed road no. 2 are excluded from the calculation. The provision of roof top communal open space was considered as part of the assessment but there was no logical point of access to the rooftop without a complete redesign of the floorplan at Levels 3 and 4 to facilitate access. In addition, roof top open space would also require lift overruns which would increase the building height above 14 m, beyond the maximum building height permitted.
- It has also been considered that the site is heavily constrained due to the three street frontages, which effectively reduces the opportunities for locating communal open space to the side or rear of the site. This would normally be achieved where there is only 1 or 2 street frontages. The creation of the centrally located communal open space is therefore effective in creating an area that is both accessible and has good solar access. However, this arrangement would require exception design measures and useability to outweigh the shortfall in area.
- In accepting the location and general provision of communal open space it is acknowledged however that the current landscape design does not achieve the objectives of Part 3D 'Communal Open Space' of the Apartment Design Guide for the full 25%, and that revised plans are required to ensure that a high quality space is delivered.
- Accordingly, to make the remainder of the COS areas more usable, a deferred commencement condition is recommended to resolve the following issues:

- Reconsideration of pathway locations, a reduction in the amount of pathways transecting the 2 spaces could increase the useable areas, especially along the open space to the western boundary
- Size of private terraces at Level 1 and their relationship to the communal open space to be better resolved
- Provide sections showing the relationship between the private balconies/terraces and the proposed communal open spaces
- Provide landscape detail and sections along the street frontages and all planting within the COS areas
- Provide details of the location of BBQ areas and seating and any other improvements to be delivered within the Communal open space for occupant's use
- There is no detail provided as to whether shading is to be provided over any of the deck areas
- Reduction in the amount of decked area is to be reduced and provision of detail as to how this space relates to the private terraces immediately adjoining them
- Ensuring that the architectural plans are consistent with the landscape plans in relation to the size and location of private terraces/balconies as they currently conflict
- Resolution of the western open space is to make it more inviting, with seating options and useable space for residents.

In order for the communal open space to be effective it ideally should be located behind the front building line, screened from the street by landscaping, have changes in levels to create privacy, be well designed and useable. As outlined above, this can be achieved by the deferred commencement condition requiring reconsideration of the landscape design for the site, to ensuring that the requirements of the ADG are adequately addressed in relation to Part 3D 'Communal Open Space'.

7.1.2 Reduced separation distance under the ADG for Level 1 internally facing balconies

- Part 3F 'Visual Privacy' of the ADG requires a shared separation distance of 12m for buildings up to 4 storeys in height between habitable rooms. The proposed development achieves setbacks of at least 12 m for windows and balconies from Levels 2 – 4. However, at ground floor level the balconies project into the shared space with reduced setbacks to 10 m. The architectural design uses 1.5 m high privacy screens along the balcony edge to achieve privacy, although use of landscaping or moveable screens may be preferable and should be explored as part of the revised landscape design.
- The applicant hasn't provided any sections to demonstrate the relationship between the COS and balconies at ground floor level, or the relationship between terraces/balconies which are less than 12 m apart, especially those on the corners of the building which are considerably closer. Provided an appropriate landscape treatment is resolved within the communal open space, the reduced setback at ground level between balconies can be supported. This requirement is addressed in the Deferred Commencement Condition.
- The revised Landscape Plan will be required to be approved by Council prior to activation of the Development Consent.

7.2. Compliance with Blacktown Growth Centres DCP 2018

- 7.2.1 As outlined above the site has three street frontages which impacts upon the achievement of the side and rear boundary setbacks required under the Growth Centres SEPP. The applicant has set out a number of reasons to support the variations to the side and rear setback including the following:
- The primary frontage to Grange Avenue substantially satisfies the controls with a setback in excess of 6 m and elements comprising less than half the width of the elevation being at 4.5 m
 - The side at right angles to this frontage is taken to be the side boundary and controls are satisfied
 - The 2 other frontages might be considered to be secondary street frontages. A minimum 4.5 m setback would apply if these elevations were regarded as a second frontage to the building.

It is considered that the three street frontages presents a constraint that requires some flexibility in the application of the street boundary setbacks. The overall design achieves a predominantly 6m setback with setbacks of 4.5 m to balconies and architectural features to achieve articulation which is considered acceptable in this instance.

8. Issues raised by the public

- 8.1. The proposed development was notified to property owners and occupiers in the locality for a period of 14 days from 26 April 2016. The development application was also advertised in the local newspapers and a sign was erected on the site.
- 8.2. Council received 1 submission.
- 8.3. The issues raised relate to the existing poultry hatchery operation located approximately 145 m to the north of the site. The objector is the previous owner of the subject DA land. A summary of each issue and our response is provided in attachment 7.
- 8.4. The objection is considered to not warrant refusal of the Development Application.
- 8.5. The objection relates to the potential impact of the poultry farm on the new residents some 145 m to the south, and vice versa. The potential impacts to the new residential development are considered to be mitigated by distance.
- 8.6. This is a rural area transitioning to urban and the poultry farm site is designated for a future public school to meet the needs of the incoming population. In this interim period, the 2 land uses will need to co-exist. This is a common situation in release areas.

9. External referrals

- 9.1. The development application was referred to the following external authorities for comment:

| Authority | Comments |
|------------|--|
| NSW Police | Acceptable subject to conditions (see Draft condition in attachment 9) |

10. Internal referrals

10.1. The development application was referred to the following internal sections of Council for comment:

| Section | Comments |
|--------------------|---|
| Waste | Acceptable subject to conditions (see draft conditions in attachment 9) |
| Engineering | Acceptable subject to conditions (see Draft conditions in attachment 9) |
| Traffic | Acceptable subject to conditions (see Draft conditions in attachment 9) |
| Building | Acceptable subject to conditions (see Draft conditions in attachment 9) |

11. Conclusion

11.1. The proposed development has been assessed against all relevant matters 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.

12. Recommendation

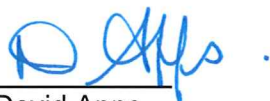
1. Approve development application JRPP-16-03306 subject to a deferred commencement consent including the conditions listed in attachment 9.
2. Council officers to notify the applicant and submitter of the Panel's decision.



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