

Assessment report to Sydney Central City Planning Panel

Panel reference: 2016SYW084

Development application

DA number	JRPP-16-03307	Date of lodgement	4 April 2016
Applicant	Blue Diamond Projects Pty Ltd		
Owner	B Kurtz and D J Humphries		
Proposed development	2 residential flat buildings with basement parking and associated works		
Street address	138 Burdekin Road, Schofields		
Notification period	21 March to 20 April 2016	Number of submissions	None

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	Capital investment value (CIV) over \$20 million (DA has CIV of \$49.9 million).
Relevant section 4.15(1)(a) matters	- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - 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 (Sydney Region Growth Centres) 2006 - Blacktown City Council Growth Centre Precincts Development Control Plan 2018 - Central City District Plan 2018
Report prepared by	Holly Palmer, Senior Project Planner
Report date	29 August 2018
Recommendation	Approve, subject to conditions listed in attachment 9.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning and height of buildings extract
- 4 Detailed information about proposal and DA submission material
- 5 Development application plans
- 6 Assessment against planning controls
- 7 Applicant's Clause 4.6 request
- 8 Council assessment of Clause 4.6 request
- 9 Draft conditions of consent

Checklist

Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 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 (section 7.24)? Yes

Conditions

Have draft conditions been provided to the applicant for comment? 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:
- 1.2 This report considers an 'integrated' Development Application (DA) for the construction of 2 x 5 storey residential flat buildings (RFBs) comprising 212 apartments, 257 basement car parking spaces and associated landscaping and stormwater drainage works on proposed Lot 1 in the subdivision of Lot 7 DP 652627 at 138 Burdekin Road, Schofields.
- 1.3 The key issues that need to be considered by the Panel in respect of this application are:
 - The proposed buildings exceed the maximum permitted building height.
 - The proposal provides a reduced building separation distance on the fifth level between 2 buildings in the development.
 - The Applicant seeks to vary the minimum required setback to balconies at the south-western street corner.
- 1.4 Assessment of the DA 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.
- 1.5 Assessment of the DA has also been undertaken in accordance with Clause 7 of State Environmental Planning Policy No. 55 (Remediation of Land) and we are satisfied that the site can be made suitable for residential development subject to conditions.
- 1.6 The application is considered satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.7 This report recommends that the Panel support the Clause 4.6 variation request to vary the height of buildings development standard in this instance, given the proposal provides a responsive design to the slope of the site and the requirements to meet civil grades and construction of the surrounding road network. The intended building height is considered to be an acceptable development outcome.

2 Location

- 2.1 The site is located within the suburb of Schofields and is approximately 800 m south-east of Schofields Station on the Richmond rail line. The site is within the Alex Avenue Precinct within the North West Growth Area as identified by State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP). The location of the site is shown in attachments 1 and 2.
- 2.2 Part of the subject site and the adjoining land to the north, east and west is zoned R3 Medium Density Residential, with a permitted building height limit of 16 m. The southern part of the subject site and adjoining land to the west are zoned SP2 Infrastructure (Drainage) and are subject to future Council acquisition. The land to the south on the opposite side of Burdekin Road is zoned R2 Low Density Residential with a permitted building height of 9 m. The zoning and height of buildings maps of the site and surrounds are shown in attachment 3.

3 Site description

- 3.1 The site is rectangular in shape with an angled road frontage to Burdekin Road. The total site area is 2.104 hectares. The current registered land title is Lot 7 DP 652627. The overall site slopes up to 6.3 m to the south-west. The northern portion of the site relating to Proposed Lot 1 slopes 4.25 m to the south-west.
- 3.2 The northern portion of the site is vacant and grassed.

- 3.3 The southern portion of the site contains a commercial style building which is occupied as a veterinary clinic with at-grade car parking within the street setback area. Vehicular access is via 2 driveways off Burdekin Road. Immediately east of the veterinary clinic there is also an existing dwelling and a separate driveway. This portion of the site is zoned SP2 Infrastructure Drainage and is identified as flood prone.
- 3.4 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 On 17 May 2010, the portion of the site subject to the development was rezoned to R3 Medium Density Residential under the Growth Centres SEPP. 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.
- 4.2 On 27 August 2015, the Applicant attended a pre-application meeting with Council officers.
- 4.3 The DA was subsequently lodged on 4 April 2016.
- 4.4 On 27 July 2017, the Applicant lodged Development Application DA-17-01489 seeking approval for Torrens title subdivision of 1 lot into 2 lots, demolition of all structures, removal of 2 trees and the construction and dedication of new public roads. This application was approved on 6 August 2018, including Deferred Commencement conditions relating to engineering and road matters, primarily due to a temporary stormwater drainage basin on land zoned SP2 Infrastructure Drainage. Proposed Lot 1 is the subject of this application for 2 RFBs. On this basis, this assessment report is only for the proposed residential flat building component.
- 4.5 The new 18 m wide public roads are provided in accordance with the Indicative Layout Plan and are to be dedicated to Council. Vehicular access to the proposed RFB is via this new public road on the western side of proposed 'Lot 1'.
- 4.6 'Lot 2' is located on the southern portion of the site and is zoned SP2 Infrastructure (Drainage). This area contains the existing Veterinary Clinic and dwelling house, which are proposed to be retained and are subject to future acquisition by Council for drainage/infrastructure purposes.
- 4.7 In July 2016, the Applicant was advised that the location of the proposed driveway was to be relocated to be clear of the proposed intersection between Road 1 and Road 3. The Applicant submitted amended architectural plans to address this issue only in April 2018, and amended stormwater plans in May 2018. These new plans are the subject of this assessment.

5 The proposal

- 5.1 This DA has been lodged by Blue Diamond Projects Pty Ltd for the construction of 2 RFBs on proposed Lot 1 in the subdivision of Lot 7 DP 652627 at 138 Burdekin Road, Schofields.
- 5.2 Lot 1, as proposed in the DA for subdivision (DA-17-01489), is located in the northern part of the site which is zoned R3 Medium Density Residential and is proposed to consist of the construction of 2 x 5 storey RFBs containing 212 apartments, 257 basement car parking spaces, communal open space areas and associated landscaping and stormwater drainage works.
- 5.3 Refer to attachment 4 for further details about the proposal, including building height, setbacks, dwelling mix, communal open space, landscaping, design verification, traffic and parking, Aboriginal due diligence matters, contamination and salinity.

5.4 Refer to attachment 5 for a copy of the DA plans.

6 Assessment against planning controls

6.1 A full assessment of the DA against the relevant section 4.15 (1) (a) matters under the Environmental Planning and Assessment Act 1979, and other relevant planning instruments, is provided at attachment 6.

7 Key issues

7.1 Proposed buildings exceed the maximum permitted building height

- 7.1.1 The proposal seeks to vary the building height control by up to 830 mm above the permissible height limit of 16 m, but only in relation to rooftop parapets over limited parts of the buildings, being a variation of 5.2 %.
- 7.1.2 The Applicant has submitted a written Clause 4.6 request (see attachment 7) to justify that compliance with the height development standard is unreasonable and unnecessary in this instance. The Applicant's justification for supporting the variation is that it results in planning benefits, such as:
 - The building encroachments are a direct result of the topography of the land that falls away to the south.
 - The minor increase in each RFB's building height is over a building length of approximately 10 m only.
 - The extra height does not generate any additional environmental impacts (i.e. overshadowing, overlooking, view loss or bulk and scale) to that generated by fully compliant 16 m high buildings.
 - The proposal is consistent with the objectives of the building height standard, the zone objectives and seeks only to provide new RFBs in a transitional neighbourhood that represent examples of good, modern architecture and therefore the proposal is in the public interest.
- 7.1.3 Attachment 8 identifies our 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 a development standard.
- 7.1.4 The proposed development has been designed to respond to the conditions of the site, which includes site benching and earthworks required to meet civil grades and construction of the surrounding road network. The resulting building height is considered to be a reasonable development outcome.
- 7.1.5 There are sufficient environmental planning grounds to justify varying the development standard given the proposal is consistent with the objectives of the development standard and the R3 Medium Density Residential zone, and the 5 storey development is consistent with the 16 m height limit permissible on the site despite portions of the rooftop parapet structures exceeding the height limit. This height exceedance is imperceptible as viewed from the public domain, does not have unreasonable impacts on the neighbouring properties or the character of the area, and does not result in adverse shadow and amenity impacts on surrounding properties.

7.2 The proposal provides reduced building separation distances in places

- 7.2.1 The proposal satisfies all building separation requirements in accordance with Section 2F Building Separation of the Apartment Design Guide (ADG), with the exception of the fifth level along the western component of the proposed RFBs. The proposal is required to provide a building separation distance of 18 m between

the habitable rooms of Apartments A24 and A25 to Apartments B21 and B22, however, only 12 m is provided.

7.2.2 The Applicant has designed the layout of these apartments to ameliorate potential concerns regarding visual and acoustic privacy by:

- providing windows to non-habitable rooms (bathrooms)
- providing highlight windows to habitable rooms (bedrooms) when they are secondary windows
- providing smaller sized windows to bedrooms when they are primary windows

7.2.3 This is demonstrated in the following floor plan extract:

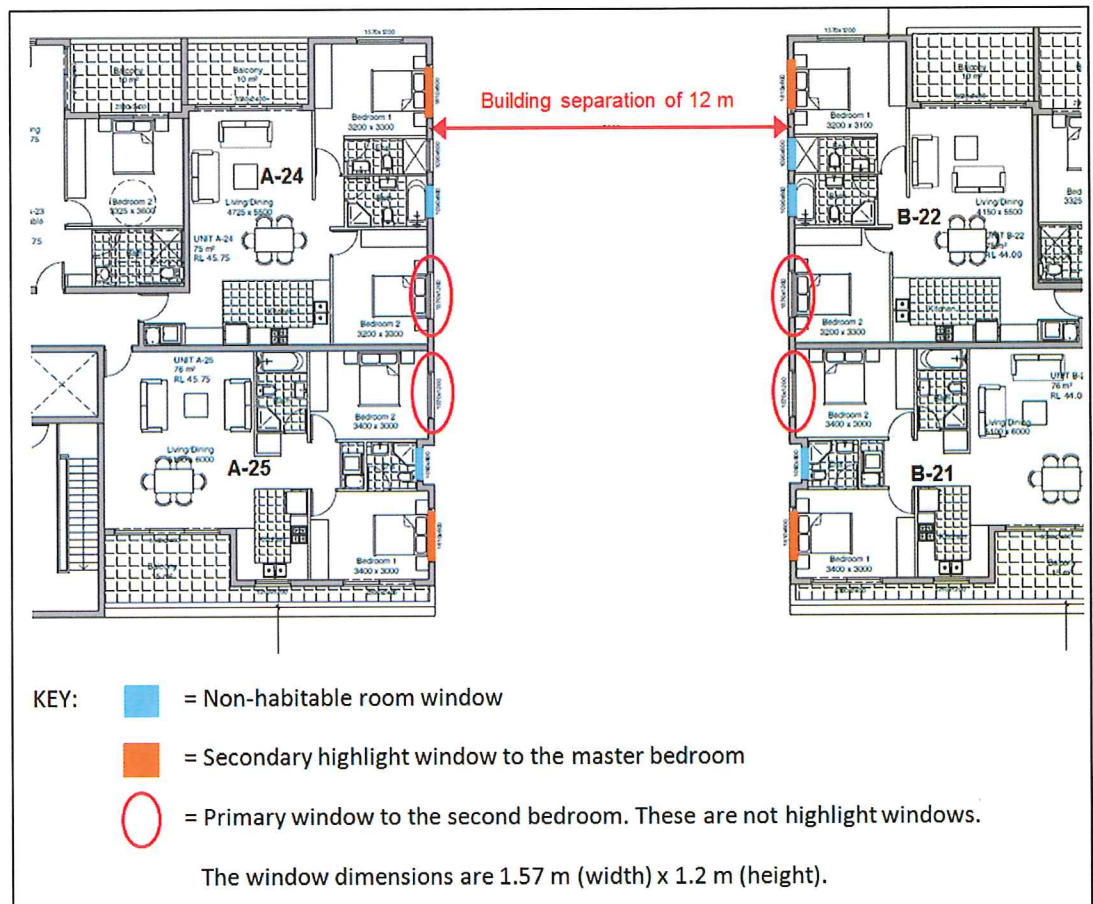


Figure 1: Extract from the 4th Floor Plan demonstrating the treatment to the windows for the reduced building separation.

7.2.4 Concern is raised that the 4 bedroom windows which are circled in red above are the only windows for these secondary bedrooms, and they are directly opposite each other. To ensure that direct lines of sight are avoided between these apartments, it is recommended that a condition of consent is imposed requiring the Bedroom 2 windows of Apartments B21 and B22 to be treated with visual privacy screens for the lower half of these windows. This is considered sufficient to ameliorate potential visual privacy concerns.

7.2.5 Although the reduced building separation encroaches on the potential to provide a greater break to the building form and perceived sense of space in this location, this shortfall to the building separation is only for 1 level and is considered to be acceptable in this instance.

7.3 The proposal does not satisfy the minimum required setback to balconies at the south-western street corner

- 7.3.1 The applicant seeks a variation to the Blacktown City Council Growth Centre Precincts Development Control Plan 2018 control for setbacks which permits setbacks from balconies to public roads to be 4.5 m for the first 4 storeys and 6 m for the fifth storey.
- 7.3.2 This variation relates to the south-western corner of proposed Lot 1 due to the provision of a new splay corner which has to be dedicated to Council free of cost. The following table identifies the setback variations:

Building area and level	Proposed setback	Complies
South-western corner RFB within Lot 1:		
Ground level	6 m to the building	Yes
First level	6 m to the building 3.5 m to the balcony	Yes No – 4.5 m required
Second and third Level	6 m to the building 4 m to the balcony	Yes No – 4.5 m required
Fourth level	6 to 6.5 m to the building 4 m to the balcony	Yes No – 6 m required

- 7.3.3 The proposed variations identified above relate to the balconies only. These balconies are designed with glass balustrading and provide an open and unobstructed design as viewed from the public domain. This allows for visual permeability to be achieved at these corner elements which is considered to be a positive design outcome for this new street corner. It is also noted that, if not for the new street corner splay, the proposal would comply with the setback to the balconies. The alternative is to delete the corner of the balconies to match the angle of the street splay, however this is not considered to be an improvement to the overall streetscape. It is preferred that corner elements of these buildings have distinct corner features to enhance the design of the built form. The proposed variation to the balcony setbacks is supported in this instance.

8 Submissions

- 8.1 The proposed development was notified to property owners and occupiers within the locality between 21 March and 20 April 2016. The DA was also advertised in the local newspapers, including the Blacktown Sun, and a sign was erected on the site.
- 8.2 No submissions were received during the notification period.

9 External referrals

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

Authority	Comments
NSW Department of Primary Industries - Water	Acceptable, subject to General Terms of Approval as the proposed works require a controlled activity approval
Roads and Maritime Services	Acceptable subject to conditions

Authority	Comments
NSW Police	Acceptable subject to conditions

10 Internal referrals

- 10.1 The DA was referred to the internal sections of Council and was considered to be acceptable to each section, subject to conditions.

11 Conclusion

- 11.1 The proposed development has been assessed against all matters and is considered on balance 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 suitable for the proposed development subject to conditions.

12 Recommendation

- 1) Uphold the Applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
- 2) Approve JRPP-16-03307 for the reasons listed below and subject to the conditions listed at attachment 9 as:
 - a) The proposal is in the public interest.
 - b) The site is considered suitable for the proposed development.
 - c) The requested Clause 4.6 variation is acceptable given its small scale and consistency with similar variations granted to other applications by the Sydney Central City Planning Panel.
- 3) The Applicant be notified of the Planning Panel's decision.



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