

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	18 December 2017
PANEL MEMBERS	Paul Mitchell (Chair), Lindsay Fletcher, Kathie Collins, Chris Quilkey
APOLOGIES	Edward Blakely, Mary-Lynne Taylor
DECLARATIONS OF INTEREST	None

Electronic meeting held between 21 November 2017 and 18 December 2017.

MATTER DETERMINED

2016SYW131 – Blacktown - JRPP-16-03315 – Demolition of the existing structures on the site for the construction of a seven storey residential flat building comprising 108 units with basement car parking – 10-14 Carinya Street, Blacktown (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to:

- Uphold the Clause 4.6 Variation to the height control; and
- approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel unanimously approved the application for the following reasons:

1. The Panel has considered the Applicant's request to vary the development standard contained in Clause 4.3 Height of Buildings of Blacktown Local Environment Plan (LEP) 2015 and considers that:
 - i. the applicant's submission adequately address the matters required under Clause 4.6;
 - ii. the development remains consistent with the objectives of the standard and the objectives of the zone;
 - iii. there are sufficient environmental planning grounds to justify the variation; and
 - iv. compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the proposed variation is acceptable from a streetscape perspective, will not generate unacceptable impacts on adjoining or nearby properties and will not result in development inconsistent in form and scale with that planned for the locality.

For the above reasons, and given no public submissions were received, the Panel is satisfied that the variation from the LEP development standard is in the public interest.

2. The development is permitted within the R4 High Density Residential Zoning, and the site has an area and configuration that is suited to this form of development.
3. The development complies with all legislative requirements and complies or substantially complies with all statutory instrument requirements. To the extent that compliance is not complete (building height), the variation is satisfactory in light of the clause 4.6 variation submission as explained in reason 1 above.

4. Notification procedures have been complied with and no objections requiring consideration were received.
5. The likely impacts of the development have been considered by Council's planners and assessed as satisfactory. The Panel also considers the site suitable for the development and that the development will have minimum impact on surrounding properties
6. The development will provide housing (including accessible housing) close to a major public transport interchange and a major shopping centre. The design is attractive and the development provides high quality housing stock and housing diversity. The development is satisfactory with respect to all Heads of Consideration required by section 79C of the *Environmental Planning and Assessment Act 1979* and is therefore in the public interest.
7. The Arboreal Impact Appraisal and Method Statement does not provide sufficient justification for the removal of trees 6, 7 and 8, which are magnificent healthy corymbia citriodora eucalypts situated near the site boundary and whose structural root zone extends only marginally into the building footprint. The Statement describes these trees as highly significant. Proposed replacement planting of trees following construction (as per this Statement) will be insufficient compensation. Accordingly, the Panel requires retention of trees 6, 7 and 8.
8. In consideration of the conclusions 1-7 above, above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

Amend 2.1.1

Correct the reference to the Landscape Plans to reference the revised plans dated October 2017.

Replace 6.2.1, as follows:

'6.2.1 The following monetary contributions under *Section 94 of the Environmental Planning & Assessment Act 1979* must be paid. The amounts below are as at the date of this consent. They WILL BE INDEXED from the date of this consent to the date of payment. Payment of the indexed amounts must be made prior to the issue of a Construction Certificate (for building works) either by Council or any accredited certifier, whichever occurs first.

PLEASE NOTE: Indexed payments must be made by BANK CHEQUE IF IMMEDIATE CLEARANCE IS REQUIRED. Payments of the full amount by credit card or EFTPOS are accepted up to \$10,000.00 only. Any payments above \$10,000.00 must be made by cheque. Payments above \$10,000.00 cannot be split between different credit or EFTPOS cards.

CONTRIBUTION ITEM	AMOUNT (indexed to date of consent) *	Relevant C.P
"Developable area contributions"		
Flood Mitigation	\$7,412	19
Stormwater Quality	\$29,284	19
"Additional population contributions"		
Traffic Management (High density development)	\$131,204	19
Traffic Management	\$183,570	19

Open space (High density development)	\$634,766	19
Open space	\$175,841	19
Community facilities	\$45,989	19
TOTAL CONTRIBUTIONS	\$1,208,066	

* Rates are applicable for payments made by 31 January 2018

The contribution(s) will be indexed according to the Australian Bureau of Statistics' Consumer Price Index (Sydney Housing) or Consumer Price Index (All Groups Sydney).

Copies of the following relevant Contributions Plan(s) may be inspected/purchased from Council's Information Centre, or viewed/downloaded at www.blacktown.nsw.gov.au:

S.94 CP No. 19 – Blacktown Growth Precinct

The Section 94 contribution(s) have been based on the total developable area and the potential additional population nominated below. Should the final plan of survey indicate any change in the total developable area or should amendments change the potential additional population, the Section 94 contribution(s) will be adjusted accordingly.

Developable Area: 0.3339 hectares

Additional Population: 184.3 persons

Note: The payment of the "developable area contribution" must be paid prior to release of any Construction Certificate (CC) (i.e. including any CC for earthworks or basement car parking). The remaining "additional population contributions" must be paid prior to release of any CC relating to the units (i.e. for any ground floor works and above).'

Replace 6.6.1 as follows:

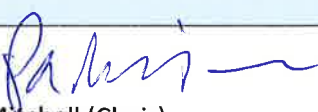
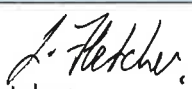


'The removal and retention of trees nominated in the Arboricultural Appraisal and Method Statement prepared by Naturally Trees dated 27 May 2016 including the street trees, is approved except for retention of tree 6, 7 and 8, and the trees to be retained must be protected as per AS 4970 – 2009 Protection of Trees on Development Sites.'

Amend 7.4.1 and 13.20.1

Amend both Condition 7.4.1 and Condition 13.20.1 to replace the BASIX certificate reference, to refer to the revised BASIX Certificate dated 6 October 2017, reference 713353M_04.

Additional Condition

The development must ensure the retention of three trees situated near the site boundary identified as trees 6, 7 and 8 on the landscape plan LPDA 16-412, page 1, dated October 2017. The trees to be retained must be protected as per AS 4970 – 2009 Protection of Trees on Development Sites.

PANEL MEMBERS	
 Paul Mitchell (Chair)	 Lindsay Fletcher
 Chris Quilkey	 Kathie Collins

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	2016SYW131 – Blacktown - JRPP-16-03315
2	PROPOSED DEVELOPMENT	Demolition of the existing structures on the site for the construction of a seven storey residential flat building comprising 108 units with basement car parking
3	STREET ADDRESS	10-14 Carinya Street, Blacktown
4	APPLICANT/OWNER	Mackenzie Architects International
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> • State Environmental Planning Policy (State & Regional Development) 2011 • State Environmental Planning Policy No 55 • State Environmental Planning Policy No 65 • State Environmental Planning Policy BASIX 2004 • Blacktown Local Environment Plan 2015 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Blacktown Development Control Plan 2015 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Clause 4.6 Variation request • Council assessment report: 9 November 2017 • Written submissions during public exhibition: Nil
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing meeting and Panel discussion 18 December 2017 • Site Inspection Lindsay Fletcher 14 December 2017. • Site inspection Chris Quilkey on 24 November 2017.
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report