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| --- | --- | --- |
| **Clause** | **Assessment** | **Compliance?** |
| **19 Development on flood prone and major creeks land – additional heads of consideration**Development consent must not be granted to development on flood prone and major creeks land unless the consent authority has taken into consideration a number of matters listed by this clause; including adverse effects on flood behaviour and the ability to safely occupy the land. | Precinct planning mapping suggested that the R3 Medium Density Residential zoned portion of this site was not subject to flooding. However, updated flood modelling of the upstream catchment reveals that the extent of flooding is greater than previously mapped and will encroach upon the north east corner of the R3 Medium Density Residential zoned portion of the site. The town centre road and the development have been designed to sit above the 1% AEP flood event.Council’s Engineers are satisfied that the works proposed in the interim case will not have adverse impacts in respect to localized flooding upon adjoining properties. | Yes |
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| **Appendix 9, 2.6 Subdivision – consent requirements**Development consent is required to subdivide land (unless the subdivision is exempt or complying development under another environmental planning instrument). | The DA seeks development consent for the subdivision of land. | Yes |
| **Appendix 9, 4.1 Minimum subdivision lot size**Lot sizes must not be less than the minimum lot size shown on the Lot Size Map.This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme. | No minimum lot size applies to this development site on the lot size map. | NA |
| **Appendix 9, 4.1AB Minimum lot sizes for residential development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential**On land zoned:* R2 Low Density Residential, or
* R3 Medium Density Residential,

The minimum lot size for a residential flat building is 2,000m2 if the dwelling density (per hectare) shown on the Residential Density Map in relation to the land is 25. | A lot area of 18,283m2 is proposed to house the mixed-use development. | Yes |
| **Appendix 9, 4.1B Residential Density**This clause applies to residential development of the kind referred to in clause 4.1AB(3) or 4.1AC.The density of any residential development to which this clause applies is not to be less than the density shown on the Residential Density Map in relation to that land. | Clauses 4.1AB(3) and 4.1AC relate to dwelling and secondary dwelling development. As such, the proposed development is not subject to this development standard. Nevertheless, based on the NDA provided, the development proposes a density of 163.9 dwellings per hectare.(2.6601 HA NDA area / 436 Dwellings) | NA |
| **Appendix 9, 4.3 Height of buildings**Maximum buildings heights must not exceed the maximum building height shown on the Height of Buildings Map.R – 21m | 21.25m (Building D – 21.07m and Building E – 21.25m) | No – Clause 4.6 variation request lodged. See below. |
| **Appendix 9, 4.4 Floor space ratio**The floor space ratio for a building on any land is not to exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map. | The development site is not subject to a floor space ratio development standard. | NA |
| **Appendix 9, 4.6 Exceptions to development standards**Development consent may be granted for development that contravenes a development standard imposed by the SEPP or any other environmental planning instrument.The consent authority must consider a written request from the applicant that seeks to justify the contravention by demonstrating that:1. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
2. that there are sufficient environmental planning grounds to justify contravening the development standard.

Development consent musty not granted unless:1. the consent authority is satisfied that:
2. the applicant’s written request has adequately addressed the matters required to be demonstrated, and
3. the proposed development will be 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, and
4. the concurrence of the Secretary has been obtained.

This clause prohibits the approval of development standard contraventions for certain subdivisions of land in some rural and environmental zones. | A Clause 4.6 written request has been submitted with the application. Consideration of the written request is made in the assessment report. | Yes |
| **Appendix 9, 5.1 Relevant acquisition authority**(3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose. | No portion of the mixed use development is located within areas of the site designated for acquisition. A temporary detention basin is proposed within the north east corner of the site, which is mapped for acquisition for drainage purposes. The use of the detention basin in this location is consistent with the objectives of the SP2 Infrastructure zone and is required development until such time as the construction of regional detention basins are made downstream of the development site. Acquisition of the site is to occur along the sites entire western boundary to upgrade Byron Road (Local Road SP2), along the sites entire northern property for the new Town Centre Road (Local Road SP2) and along the sites entire eastern property boundary for passive open space and drainage purposes (Local open space RE1 and Local Drainage SP2). | Yes |
| **Appendix 9, 5.4 Controls relating to miscellaneous permissible uses**This clause provides a number of development standards that certain developments must comply with.(7) If development for the purposes of a neighbourhood shop is permitted under this Precinct Plan, the retail gross floor area must not exceed 100 square metres.  | The development proposes one neighbourhood shop, which is permitted within the R3 Medium Density Residential zone, with a gross floor area of 86.5m2. | Yes |
| **Appendix 9, 5.9 Preservation of trees or vegetation**Development consent is required for tree removal and tree related works. | Tree removal is proposed as part of the application and has been considered by Council’s Urban Tree and Landscape Officer. Proposed tree removal is shown upon drawing C102 – Existing features layout plan, revision G, prepared by ADG. With the exception of trees located in areas of mapped existing native vegetation and native vegetation retention, the site is bio-certified and tree removal can be granted with consent.  | Yes |
| **Appendix 9, 5.10 Heritage conservation****5.10 Heritage conservation**Before granting development consent in respect of a heritage items or a heritage conservation area, the consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned.The consent authority may require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the item or heritage conservation area concerned. The submission of a heritage conservation management plan may also be required.Before granting consent to the carrying out of development on an archaeological site the consent authority must notify the Heritage Council of its intention to grant consent and take into consideration any response received within 28 days after the notice is sent.Before granting consent to the carrying out of development in an Aboriginal place of heritage significance the consent authority must:1. consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
2. notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

Before granting consent to the demolition of a State heritage item the consent authority must:1. notify the Heritage Council about the application, and
2. take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

Development consent may be granted for any purpose of a building that is a heritage item or the land on which such a building is erected, or for any purpose on an Aboriginal Place of Significance is the consent authority is satisfied as to a number of matters listed by this clause; including if the conservation of the item or place is facilitated by the granting of consent. | No items of European heritage exist on the site or are located within immediate proximity to the development site. In respect to Aboriginal heritage, a due diligence assessment report has been submitted, which concludes that the site is not an Aboriginal place of heritage significance and does not contain Aboriginal objects.  | NA |
| **Appendix 9, 6.1 Public utility infrastructure**Development consent must not be granted for development on land unless the consent authority 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 it is required. | Water and SewerageThe DA was referred to Sydney Water for comment in accordance with Sydney Water’s DA referral guidelines. Water ServicingSydney Water have advised that the site can be serviced by the existing DN100 water main, however for the proposed works to be serviced, a DN150 water main would be required to be constructed around the development.Wastewater servicingSydney Water have advised that the development can be serviced via a recently constructed lead-in main (#SC09) passing along Byron Road from West to East. This lead-in main is connected to SP1182.Detailed water and sewerage requirements will be provided at the Section 73 application stage. ElectricityIn July 2019 the North Leppington Zone substation was switched on enabling electricity to be provided to the town centre.It is noted that the Leppington area is being progressively serviced by public utility infrastructure over time. It is therefore considered that adequate arrangements for the provision of public utility infrastructure could be made via conditions if development consent was granted.  | Yes |
| **Appendix 9, 6.2 Development controls – native vegetation retention areas**This clause applies to land within a native vegetation retention area as shown on the Native Vegetation Protection Map.Development consent is required to clear native vegetation.Development consent must not be granted unless the consent authority is satisfied of a number of matters; including that there is no reasonable alternative available to the disturbance of the native vegetation. | No vegetation that is mapped within the native vegetation retention area is proposed to be cleared.A small portion of the north east corner of the site is mapped as existing native vegetation area and native vegetation retention area, contrary to the ILP and acquisition mapping, which proposes the future construction of the 25m wide Town centre road.The eastern end of the town centre road is provided with a 9m turning head and does not extend into the existing native vegetation area and native vegetation retention area.A drainage swale to convey flows from the temporary detention and biofiltration basin to Bonds Creek to the east is proposed to occur within the mapped native vegetation and retention areas, however, will be designed to avoid the removal of any native vegetation.  | Yes |
| **Appendix 9, 6.3 Development controls – existing native vegetation**This clause applies to land within an existing native vegetation area as shown on the Native Vegetation Protection Map.The consent authority must not grant development consent for development on land to which this clause applies unless it is satisfied that the proposed development will not result in the clearing of any existing native vegetation (within the meaning of the relevant biodiversity measures under Part 7 of Schedule 7 to the *Threatened Species Conservation Act 1995*). | No tree removal is proposed to occur at the north east corner of the site, where existing native vegetation is mapped. A drainage swale to convey flows from the temporary detention and biofiltration basin to Bonds Creek to the east is proposed to occur within the mapped native vegetation area, however, will be designed to avoid the removal of any native vegetation. | Yes |