

## Report to Sydney Central City Planning Panel

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| Panel reference   | 2016SYW217  |
| DA number   | DA-16-03716   |
| Proposed development  | Demolition of existing structures, subdivision to create 3 super lots and 1 road lot, construction of new local roads, construction of 3 x four to five storey residential flat buildings with basement car parking and services  |
| Street address  | Lot 7 Section J DP193074, 215 Grange Avenue, Marsden Park   |
| Applicant/owner   | Design Cubicle Pty Ltd (applicant), John and Anna Borg (owners) Hanna (John) Ibrahim (purchaser)  |
| Date of DA lodgement  | 23 May 2016   |
| Number of submissions                                       | 1   |
| Regional development criteria (Schedule 4A of the EP&A Act) | Capital investment value (CIV) over \$20 million (DA has CIV of \$39,967,204)   |
| All relevant s79C(1)(a) matters                             | <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Developmental) 2011</li> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>• State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) and Apartment Design Guide</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</li> <li>• Draft Central City District Plan 2017</li> <li>• Blacktown City Council Growth Centre Precincts Development Control Plan 2016</li> </ul> |
| Report prepared by  | Aimee Lee/John Brunton  |
| Report date   | 29 November 2017  |
| Recommendation  | Approval subject to conditions  |

### 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 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 (s94EF)?

Yes

### Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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## ATTACHMENTS

Attachment 1 - Location map

Attachment 2 - Aerial image

Attachment 3 - Zoning extract and extract from the Marsden Park Precinct Indicative Layout Plan

Attachment 4 - Additional information about the proposal

Attachment 5 - Development application plans

Attachment 6 - Assessment against planning controls

Attachment 7 - Draft conditions of consent

## 1 Executive summary

1.1 This report considers a proposal for:

- a. The demolition of the existing buildings on site
- b. Subdivision to create 3 super lots and 1 road lot
- c. Construction of 3 x four to five storey residential apartment buildings, with a total of 169 apartments. The 3 buildings are separated from each other by new local roads and each has a separate basement with services and car parking spaces
- d. Associated works, including 3 new public roads, stormwater works, tree removal and site landscaping.

1.2 Assessment of the application 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, including deferred commencement conditions.



- 1.3 The application is satisfactory when evaluated against Section 79C of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions.

## 2 Key issues list

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- 2.1 The key issues that need to be considered by the Panel in respect of this application are:
- a. Internal amenity of apartments, including overlooking/visual privacy, acoustic privacy due to traffic noise and proximity of living areas to internal driveways
  - b. Height due to encroachment of the lift overrun and small sections of the building roof into the height plane
  - c. Inadequate provision of deep soil zone, landscaping and communal open space
  - d. Placement of a stormwater runoff pit on adjoining property without owners' consent
  - e. Apartment mix, particularly in relation to the lack of provision for liveable units.

## 3 Location

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- 3.1 The site is located on the southern side of Grange Avenue, east of Richmond Road in the eastern part of the Marsden Park Precinct within the North West Priority Growth Area. Grange Avenue provides access to Schofields railway station, which is 4 km to the east. It is a collector road identified in Council's Section 94 Contributions Plan No. 21 – Marsden Park and the indicative delivery program for its construction is 2028 – 2032. Located 500 m to the west is Richmond Road, a State road providing access from Blacktown to Richmond.
- 3.2 The location of the site is shown in **Attachment 1**. The land surrounding the site is zoned for future residential development in a manner similar to the subject site. At present the area is largely semi-rural with properties used for agricultural and/or rural residential uses. Nearby on Richmond Road is the location of the planned Marsden Park Town Centre.

## 4 Site description

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- 4.1 The site is described as Lot 7 Section J, DP 193074, known as 215 Grange Avenue, Marsden Park. The site is a rectangular shaped allotment with a street frontage of 60.35 m and depth of 181.05 m, producing an area of 1.092 hectares.
- 4.2 The site contains an existing dwelling, 2 outbuildings and 8 trees including 3 endemic remnant forest trees. Otherwise the site is vacant grassland. The site does not comprise environmentally sensitive land. The site has a gentle slope, generally falling from the north-western corner at Grange Avenue towards the south-east portion of the site.
- 4.3 The lot is currently zoned R3 Medium Density Residential under the Growth Centres SEPP. Residential apartment buildings are permissible in the R3 zone.
- 4.4 The Growth Centres SEPP, Appendix 12 provides development standards for the site. The height limit is 14 m on the Height of Buildings Map, the minimum density required for the site on the Residential Density Map is 25 dwellings per hectare, and the minimum lot size is 2,000 square metres for the development of a residential apartment building.

- 4.5 An aerial image of the site and surrounding area is at **Attachment 2**. An extract from the zoning plan for the site and surrounds and an extract from the Marsden Park Precinct Indicative Layout Plan is at **Attachment 3**.

## 5 Background

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- 5.1 A Pre Application Meeting regarding the proposal was held between representatives of the applicant and Council officers on 13 October 2015.
- 5.2 The DA was received by Council on 23 May 2016. The plans were redesigned at the request of Council's waste officers, with the latest plans, version 'G,' being submitted to Council in July 2017. The applicant seeks approval for the staged construction of the proposed residential apartment buildings and associated works.

## 6 The proposal

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- 6.1 The Development Application (DA) has been lodged by Design Cubicle Pty Ltd. and seeks approval for:
- a. Demolition of all existing structures on the site
  - b. Removal of all trees on the site
  - c. Subdivision to create 3 super lots and 1 road lot
  - d. Construction of 3 new public roads to be dedicated to the Council. One road is to be built at half width running north-south along the eastern boundary of the site, intersecting with Grange Avenue. The other 2 roads are to be built as full width roads parallel to Grange Avenue, running east-west through the site and intersecting with the new eastern boundary road.
  - e. Construction of 3 parallel residential apartment buildings (Buildings A, B and C), each stepping down the site north to south from Grange Avenue, containing a total of 169 apartments. Building A is 5 storeys, has 66 apartments with 84 car parking spaces in 2 basement levels. Building B is 5 storeys, has 72 apartments and 94 car parking spaces in 2 basement levels. Building C is 4 storeys, has 31 apartments and 39 car parking spaces in 1 basement level. Each of these buildings will be separated from one another by a new local road. Buildings A and B have 3 road frontages and Building C has 2 road frontages.
  - f. Vehicle entries are provided to the basements from the new local roads. No vehicle access is proposed from Grange Avenue. One pedestrian entry is provided to each building from the new local roads.
  - g. Associated works, including internal driveways, stormwater works and site landscaping, communal and private open space and perimeter fencing.
- 6.2 The proposed building height is a maximum of 15.15 metres to the top of the lift overruns, higher than the 14 m height limit under the Growth Centres SEPP. A submission for a Clause 4.6 variation has been made by the applicant, seeking an exemption to the development standard for the maximum height of a building. No habitable floor space or units encroach into the height plane.
- 6.3 The apartment mix consists of 33 x 1 bed (20%), 129 x 2 bed (76%) and 7 x 3 bed (4%) apartments. The application states that 17 (10%) of apartments will be adaptable, with accessible parking provided in basements.



- 6.4 The buildings are all set back 6 m from the street, with minor intrusions by some balconies. In relation to adjacent properties, the setbacks are 6 m to the west for all buildings (9 m for the 5<sup>th</sup> storey), with intrusions by some balconies, and 6 m to the south for Building C.
- 6.5 A loading area is provided in the basements of Buildings A and B adjacent to the garbage bin room, for the use of waste services trucks and residents. In Building C a loading area is available at ground level adjacent to the proposed ground level waste storage area.
- 6.6 Buildings A and B each have an internal ground level communal open space area. These areas include planter boxes, synthetic turf, seating and BBQ and children's play area. This space also serves as the pedestrian access to the lobby entry to the buildings. Buildings A and B also have rooftop communal open space areas which have seating but no landscaping or shading devices. Building C has no accessible ground level communal open space or rooftop open space. This is examined in Section 8.3 of this report.
- 6.7 Private open space areas are provided for the ground floor apartments, both around the perimeter of the site in the boundary setbacks and adjacent to the internal community open space. This private space includes balconies and adjacent turf with planted edges for privacy. All apartments above ground level have balconies.
- 6.8 Landscaping plans indicate a selection of trees, shrubs and groundcovers, including Australian native plants. Narrow deep soil areas for tree planting are provided on the site boundaries and in central locations in Buildings A and B. Limited numbers of trees are located both within the community open space areas and along the roads and other site boundaries. 2 existing street trees will be retained as they are situated within the road reserve of Grange Avenue and being Council's asset. Fencing with a height of 1.2 m is proposed for the front and side boundaries. It will be of masonry construction with open horizontal slats for the top 200 mm. Similar masonry fencing to a height of 1.6 m is proposed for the private open space, with horizontal slats for the top 600mm.
- 6.9 The eastern elevations of all buildings are similar in design, materials and colour scheme, with the same elements and treatments. Neutral tones and colours are proposed with concrete render and paint finishes, alucobond cladding and glass balustrades on balconies. Alucobond is a non-combustible aluminium composite material and fully compliant with the Building Code of Australia.
- 6.10 Other details about the proposal, including traffic, parking and acoustic matters, are at **Attachment 4**. A copy of the application plans (version G), elevations and landscape plans are at **Attachment 5**.

## 7 Assessment against planning controls

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- 7.1 A full assessment of the Development Application against relevant planning controls is provided in **Attachment 6**, including:
  - a. Environmental Planning and Assessment Act 1979
  - b. State Environmental Planning Policy (State and Regional Development) 2011
  - c. State Environmental Planning Policy (Sydney Region Growth Centres) 2006
  - d. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and Apartment Design Guide
  - e. State Environmental Planning Policy (Infrastructure) 2007
  - f. State Environmental Planning Policy No. 55 – Remediation of Land
  - g. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

- h. State Environmental Planning Policy No. 20 – Hawkesbury-Nepean River
- i. Blacktown City Council Growth Centre Precincts Development Control Plan 2010
- j. Draft Central City District Plan
- k. Section 94 Contributions Plan No 21 - Marsden Park
- l. State Infrastructure Levy.

## 8 Key planning issues assessment

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### 8.1 Internal amenity of apartments

- a. Assessment of the proposed development with respect to SEPP No. 65 identified that the apartments will not deliver the desired minimum level of amenity for the future residents. Several units at ground level and on the level above them have the bedroom, living room and/or kitchen windows facing directly onto internal driveways with no landscaping. In Buildings A and B these are western frontage units AG11, AG09, A109, A110 and A112, BG09, B109, B111 and B113, and in Building C units CG08 and C101 are to be provided with solid balcony balustrades to reduce the intrusion of driveway noise.
- b. A consultant noise assessment report found that the road traffic noise on the proposed units will potentially exceed the noise criteria with windows opened and closed. The assessment makes recommendations for noise control measures for the residential units, including glazing of windows and doors, which will need to be closed to meet internal noise levels and, furthermore, alternative ventilation methods are required. Conditions have been recommended to ensure the required minimum Rw rating for the glazing, doors and building façade, as stated in the Road Traffic Noise Report submitted with the DA, is achieved and the internal noise level complies with the LAeq levels nominated in Clause 102 of State Environmental Planning Policy (Infrastructure) 2007.
- c. Visual privacy across the central courtyard of Buildings A and B is not achieved. For example, there is insufficient separation in Building A between the bedrooms of Units A103 and A104, and the same units on the levels above, and between the open walkway to Unit A115 and Units A111 and A114, and the same units on the levels above. To minimise overlooking and to protect the privacy of the bedrooms of Units A103 and A104 and those units above, external louvres are recommended. It is also recommended that the open walkway be fitted with full height glass bricks to protect the privacy of Units A115, A111 and A114. Solid balcony balustrades are recommended for Units A111, A211 and A311 to minimise visual intrusion from the communal open space to the east.
- d. The west-facing balconies of Building C encroach within the 6 m side separation distance from the adjoining property by 1 m. This can be rectified through consent conditions.
- e. These recommendations have been included in the conditions of consent at **Attachment 7**.

### 8.2 Height

- a. The proposed building height is a maximum of 15.15 metres to the top of some of the lift overruns. Additionally, small sections of building roofs are fractionally higher than the 14 m height limit under the Growth Centres SEPP. The encroachment into the height plane is not habitable floor space. A Clause 4.6 variation has been

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submitted for an exemption to the development standard for the maximum height of a building.



- b. The extent of the height variation is minimal. The variation is due to the topography and characteristics of the site. The extent of the variation does not undermine the objectives of the development standard or the R3 zone and is not considered to have any adverse environmental impact. It is considered satisfactory to allow the minor variation to the height of building development standard in this circumstance.

### 8.3 Deep soil zone, trees, landscaping and communal open space

- a. To facilitate the development, a total of 8 existing trees are proposed to be removed, 5 of them are not considered to be significant and 3 are significant endemic trees, including 2 Forest Red Gums. The Forest Red Gums are in reasonable to poor condition.
- b. The plans show 6 large trees and 5 medium trees are to be planted, providing 11 trees. It is stated that 190 trees are provided, but most are small trees and 43 are street trees. With 20 large trees or 39 medium trees required for the entire project, the proposal falls well short of what is adequate. Buildings A and B should each provide 8 large or 16 medium trees.
- c. The ADG requires 7% of the site area to be provided as deep soil zone, with a minimum dimension of 6 m. This is equivalent to 517 sqm. A total of 1538 sqm is proposed, however it includes areas of less than 6 m. This means that insufficient width is proposed to contain deep soil to support trees. The large basement footprints of each building mean there is less ground area for deep soil and landscaping. Deep soil areas for all buildings are less than the ADG standard and the use of synthetic grass in some areas reduces the potential of the deep soil areas for tree planting. The narrow deep soil areas will only support small trees. With an increase in large deep soil areas there will be the opportunity to increase the planting of substantial trees.
- d. Conditions are recommended for an increased area of deep soil on each of the 3 building sites, by reducing the footprint area of the basements. This can be achieved by removing additional car parking spaces not needed for the development.
- e. A proposed condition of consent requires the provision of additional trees and the selection of appropriate species from the Growth Centre Precincts DCP, including the endemic forest red gum species.
- f. Rooftop communal open space is necessary in Buildings A and B to ensure there is adequate communal open space with good solar access. The proposed rooftop communal open space for Buildings A and B are accessible to all the occupants of the buildings via lifts and these communal rooftop terraces are afforded with good solar access.
- g. However, the architectural plans show that Building C, which is separated by roads from the other buildings, has no accessible ground level communal open space with facilities and no rooftop open space. Accordingly, a condition is recommended for the provision of an accessible rooftop communal open space to Building C. This will increase the provision of communal open space by approximately 330 sqm. This will also necessitate extending the lift well and stairs to the rooftop for access to the common open space. The landscape plan is conditioned to be updated to incorporate a rooftop terrace for Building C and incorporate planting details for the rooftop terraces of Buildings A, B and C.



- h. The provision of accessible rooftop communal open space, increased deep soil area through reduction of basement footprint, and increasing the number of trees on the site of Building C are all recommended. A condition which requires the basement and driveway of Building C be moved to at least 1.5 m from the southern boundary, and that landscaping be provided along that boundary including shrubs with full grown height of 2 m, is also recommended.
- i. All of these recommended amendments have been incorporated as deferred commencement conditions of the consent.

#### **8.4 Stormwater**

- a. Council's engineers have raised concerns regarding stormwater disposal from the site, including the need for a stormwater easement on the adjacent property at 213 Grange Avenue. The owners of 213 Grange Avenue have objected to the proposed placement of stormwater pits on their property. In response to the issues raised by the submitter, the applicant has amended the proposal for a piped system for stormwater disposal through the affected property, which in turn requires a drainage easement. A deferred commencement condition of consent is proposed that requires the Applicant to obtain owner's consent or an order under Section 88K of the Conveyancing Act 1919 from the Supreme Court to resolve the stormwater issues for the site.

#### **8.5 Apartment mix**

- a. The proposal consists of 33 x 1 beds (20%), 129 x 2 beds (76%), 7 x 3 beds (4%), with 10% being adaptable units and no other liveable units. A condition of consent is proposed for the provision of liveable units consistent with the ADG requirement of 20% (including 10% adaptable units).

### **9 Issues raised by the public**

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- 9.1 The proposed development was notified to property owners and occupiers within the locality between 26 July and 9 August 2016. The DA was also advertised in the local newspapers and a sign was erected on the site. As a result of the notification, one submission was received from the owners of the adjacent property, 113 Grange Avenue. The submission objected to the proposed placement of a stormwater runoff pit in the middle of their property and the temporary battering associated with the proposed road construction.
- 9.2 The objector's concerns are valid and warrant a suitable condition to be imposed as a deferred commencement condition that requires the consent be obtained from the owners of 213 Grange Avenue and an easement created on the burdened lot to enable the proposed development to proceed. The concerns of the neighbour can be conditioned as part of this process.
- 9.3 A further condition is recommended for a temporary retaining wall to replace the temporary battering issue associated with the proposed road construction along the objector's boundary, so that no works encroach on their property.
- 9.4 The objection is considered to not warrant refusal of the DA but must be resolved as part of the deferred commencement conditions.

## 10 External referrals

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

| Section    | Comments                         |
|------------|----------------------------------|
| NSW Police | Acceptable subject to conditions |

## 11 Internal referrals

11.1 The DA was referred to the internal sections of Council and found to be satisfactory subject to conditions, including some deferred commencement conditions.

## 12 Conclusion

12.1 The proposed development has been assessed against all matters for consideration. This has identified numerous shortcomings, but it is considered that it can be improved to a satisfactory standard with the adequate resolution of several design and stormwater issues. These necessary improvements can be achieved through the proposed deferred commencement conditions. The proposed Clause 4.6 variation to building height is considered acceptable in the circumstances of the site.

12.2 It is considered that the likely impacts of the development can be satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

## 13 Recommendation

13.1 The submission under Clause 4.6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Appendix 12 Blacktown Growth Centres Precinct Plan, for modification of the development standard within State Environmental Planning Policy (Sydney Region Growth Centres) 2006 be supported and the development standard be modified to a Building Height of 15.15 m.

13.2 The development application be approved by the Sydney Central City Planning Panel subject to the conditions held at Attachment 7.

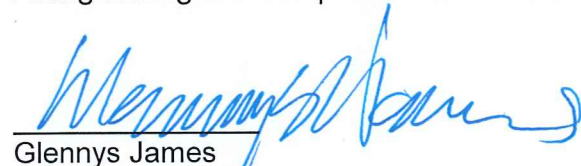
13.3 The submitter be notified of the Panel's decision.



Aimee Lee  
Assistant Team Leader – Projects



Alan Middlemiss  
Acting Manager Development Assessment



Glennys James  
Director Design and Development