

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SSW045
DA Number	DA-574/2017
LGA	Liverpool City Council
Proposed Development	Demolition of existing structures and the construction of four x 4-storey residential flat buildings containing 253 residential apartments, basement carparking and associated landscaping and torrens title subdivision, over two stages.
Street Address	484 & 488 BRINGELLY ROAD, AUSTRAL (LOT 7 DP 1203674 and LOT 6 DP 1203674)
Applicant	DREAMSCAPES ARCHITECTS
Owner	Austral Dwelling Pty Ltd / Happy Trading Pty Ltd
Date of DA Lodgement	2 August 2017
Number of Submissions	One (1) submission
Recommendation	Refusal
Regional Development Criteria (Schedule 4A of the EP&A Act)	The proposal has a capital investment value of over \$30 million
List of all relevant s4.15(1)(a) matters	<p>1. <i>List all of the relevant environmental planning instruments: s4.15(1)(a)(i)</i></p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP SRGC). • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65). • State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55). • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. • State Environmental Planning Policy (Infrastructure) 2007. • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No2 – 1997) (SREP 20). <p>2. <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s415(1)(a)(ii)</i></p> <ul style="list-style-type: none"> • No draft Environmental Planning Instruments apply to the site. <p>3. <i>List any relevant development control plan: s4.15(1)(a)(iii)</i></p> <ul style="list-style-type: none"> • Liverpool Growth Centre Precincts DCP 2016 (Growth Centres DCP) <ul style="list-style-type: none"> ○ Part 1 – Introduction

	<ul style="list-style-type: none"> ○ Part 2 – Precinct Planning Outcomes ○ Part 3 – Neighbourhood and subdivision design ○ Part 4 – Development in the residential zones <ul style="list-style-type: none"> ● Liverpool City Council Development Control Plan (LDCP) 2008 <ul style="list-style-type: none"> ○ Part 1 – Notification <p>4. List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s4.15(1)(a)(iv)</p> <ul style="list-style-type: none"> ● No planning agreement relates to the site or proposed development. <p>5. List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</p> <ul style="list-style-type: none"> ● Consideration of the provisions of the Building Code of Australia and National Construction Code (NCC).
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Architectural plans 2. Statement of Environmental Effects 3. Draft conditions of consent (without prejudice) 4. Clause 4.6 Variation Written Justification to Height 5. SEPP 65 Verification Statement, Design Principles and Compliance Table 6. Landscape plan 7. Waste Management Plan 8. Traffic Report 9. Contamination Cover Letter 10. Preliminary Site Investigation 11. Stormwater and Flooding Report 12. Civil drawings 13. Heritage Impact Statement 14. BCA and Accessibility Compliance Report 15. Acoustic Report 16. Arborist Report 17. BASIX Certificate Blocks A & B 18. BASIX Certificate Blocks C & D
Report prepared by	Ivan Kokotovic – Senior Development Planner
Report date	6 May 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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 summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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 (S7.11EF)?

Yes

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

N/A

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney Western City Planning Panel is the determining body as the Capital Investment Value of the development is over \$30 million, pursuant to Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*.

1.2 The proposal

The application proposes the demolition of existing structures and the construction of four x 4-storey residential flat buildings containing 253 residential apartments, basement carparking and associated landscaping and torrens title subdivision, over two stages.

1.3 The site

The site is identified as Lot 7 DP 1203674 and Lot 6 DP 1203674, No. 484 – 488 Bringelly Road, Austral.

1.4 The issues

The main issues are identified as follows:

- i) Excessive Residential Density pursuant to Clause 4.1B in Appendix 8 of SEPP SRGC;
- ii) Excessive Height of Building pursuant to Clause 4.3 in Appendix 8 of SEPP SRGC;
- iii) Non-compliance with R3 zone objectives in Appendix 8 of SEPP SRGC;
- iv) Non-compliances with SEPP 65 and Apartment Design Guide (ADG);
- v) Non-compliance with SEPP 55 Clause 7;
- vi) Non-compliance with SREP 20 Clause 4;
- vii) Non-compliances with the Growth Centres DCP;
- viii) Constraints on Future Development to the adjoining western allotment;
- ix) No adjoining owner's consent for down-stream easements; and
- x) Lack of technical information regarding stormwater and overland flow infrastructure, traffic generation and mitigation measures, and site contamination.

1.5 Exhibition of the proposal

The development application was notified for a period of 14 days between 23 August 2017 and 7 September 2017 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). One (1) submission was received objecting to the proposed development.

1.6 Conclusion

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, the applicable State Environmental Planning Policies, the Growth Centres DCP, and the relevant codes and policies of Council.

The proposed development is permissible within R3 Medium Density Residential zones under SEPP SRGC, however, the proposal is inconsistent with and does not satisfy the key

considerations of SEPP SRGC, SEPP No. 65 and the Growth Centres DCP, with respect to the excessive density, height and character of the proposed development. In addition, the submitted details and information are deficient in relation to site contamination, traffic outcomes and cumulative impacts on the street network and design, overland flow and water quality management, and in providing the required adjoining owner's consent regarding isolation of an adjoining site, the necessity for creating easements to manage drainage on an adjoining site, and impact on trees on an adjoining site.

Based on the assessment, the application is considered to be unsupportable and unsatisfactory in establishing the merits of the development and is likely to result in adverse impacts upon the desired planning outcomes and desired future built environment of the locality. Accordingly, in accordance with the reasons for refusal as stated in the report including a lack of information, it is recommended that the application be refused.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is identified as Lots 6 & 7 in DP 1203674, being 484 & 488 Bringelly Road, Austral. The site is rectangular in shape with a total area of approximately 1.7414ha. The subject site has a primary frontage of 103m to Bringelly Road (to the south) and a recently constructed half-road frontage to Crop Avenue of 103m which was constructed and dedicated to Council as part of approved DA-1096/2016 at 240-260 Fifth Avenue, Austral. Currently on the site are two dwellings, outbuilding structures and sporadic vegetation. The entire site has Biodiversity classification and thus vegetation removal is generally deemed acceptable for the purpose of development consistent with the zone objectives.

The site slopes from the west to the east of the site, falling approximately 4m towards Scalabrini Creek which is zoned for a future drainage channel. The site is not flood or bushfire affected, however, approximately half of the site is impacted by the Bringelly Road classified road noise affectation.



Figure 1: Aerial photograph of the Site

2.2 The locality

The subject site is located along the southern boundary of the current suburb of Austral. Bringelly Road is the boundary between Leppington and Austral, with the locality being within the future suburb of Leppington North. The immediate locality is semi-rural but is in transition consistent in nature with the R3 – Medium Density Residential zoning under SEPP SRGC. The site is located on the main east-west road corridor through the locality being Bringelly Road, and drains naturally to Scalabrini / Bonds Creek, which is a tributary to South Creek and eventually to the Hawkesbury River.

The site is located approximately 14km south west of the Liverpool CBD and approximately 1km north-west of Leppington train station with an estimated walking distance of approximately 1.3km. Currently the nearest bus stop within walking distance from the site with a service is located on Eastwood Road approximately 350m to the south, which is serviced by route 856 and provides daily services from Bringelly to Liverpool via Leppington Station.

The adjoining sites to the west (500 Bringelly Road) and east (470-480 Bringelly Road) have not been the subject of any Pre-DAs or DAs. The site directly to the north has three DAs approved as staged works being:

- DA-1096/2016 was approved on 21 December 2017 for the '*Subdivision of four lots into 31 Torrens title lots and 9 residue lots, earthworks, drainage, construction of roads, tree removal and utilities*'.
- DA-202/2017 was approved on 21 December 2017 for '*Integrated Housing Development Including Construction of Fifty-One (51) Dwellings and Torrens Title Subdivision of Land, Construction of Three (3) Studio Dwellings Including Strata*

Subdivision, land contouring, stormwater drainage, landscaping and associated works’.

- DA-203/2017 was approved on 21 December 2017 for *‘Integrated Housing Development Including Construction of Fifty-One (51) Dwellings and Torrens Title Subdivision of Land, Construction of Three (3) Studio Dwellings Including Strata Subdivision.*

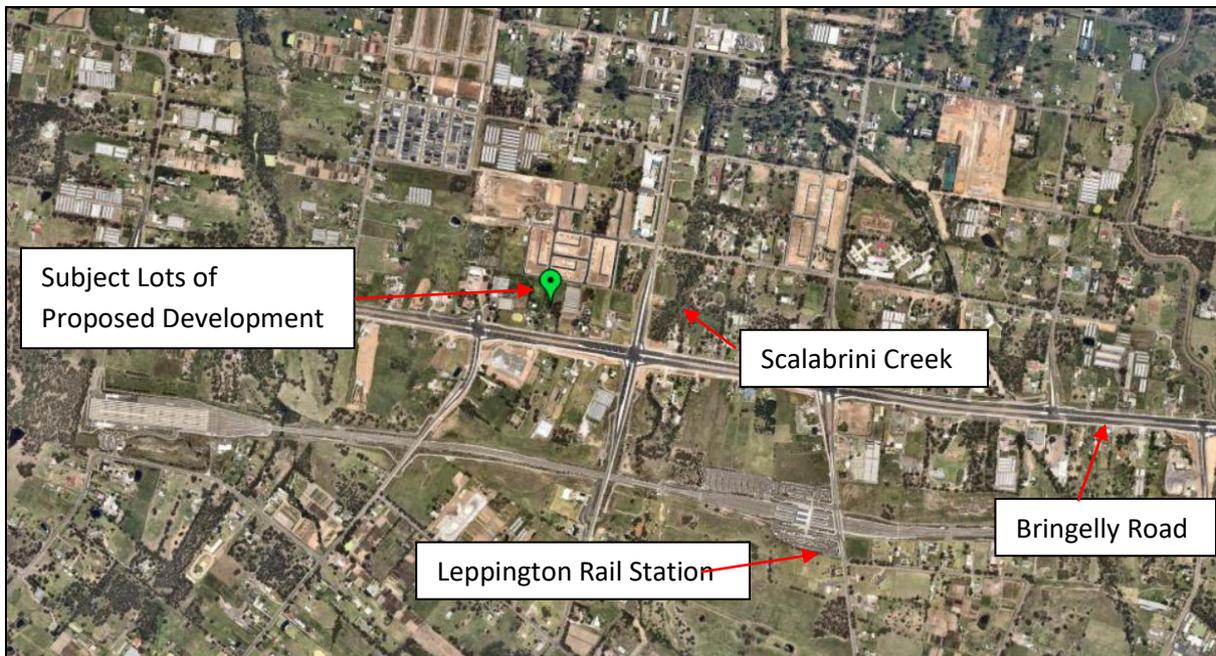


Figure 2: Aerial photograph of the locality

For clarity and context, the subject site is located within the Austral and Leppington North Precinct, which has a projected population of 55,000 within 20,000 dwellings (as identified by the Austral and Leppington North Precinct Plan Report) serviced by the Austral Town Centre and the Fifteenth Avenue, Gurner Avenue and Eighth Avenue Neighbourhood Centres. The Austral and Leppington North Precinct is characterised generally by low density residential to low-scale medium density residential environments. Leppington North itself has a target population of 33,000 with a dwelling yield of 12,000.

Given the location of the subject site within close proximity of the Leppington Town Centre Precinct it is considered this land could best be characterised as R3-Medium Density Residential land which by virtue of its location is residential suburban / urban transition land. As shown in Figure 3 (below), the subject site is located on the opposite side of Bringelly Road and 300m west of land identified as being within the Leppington Town Centre Precinct.

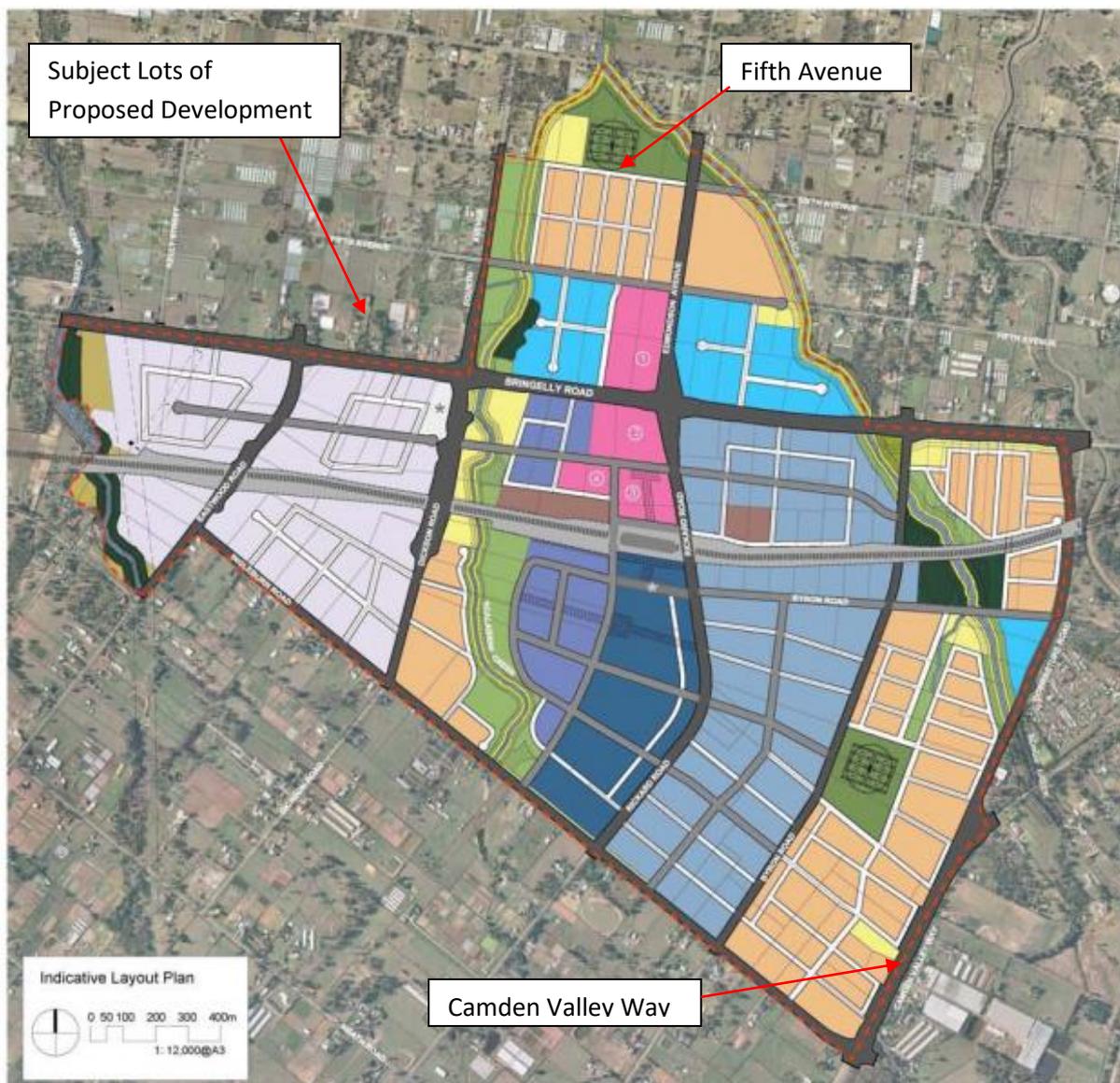


Figure 3: Leppington Major Centre and location of land the subject of this DA-574/2017.

Note:

The Department of Planning & Environment is quickly progressing with the revised ILP and land-use zones for the Leppington Town Centre and is at the Precinct Planning stage having finalised the Strategic Planning and Project Establishment. Most of these changes only affect the Camden LGA to the south, but there will likely be a rezoning between Camden Valley Way and Fifth Avenue in Austral. The proposal would be to rezone land from B5 – Business Development to B4 – Mixed Use.

Instructively, land use and yield calculations have been provided for Medium Density Residential within the Major Centre, which is the residential area bounded by Fifth Avenue to the South, Sixth Avenue to the North, Edmondson Avenue to the West and East of Scalabrini Creek. The calculations provided indicate a FSR of 0.35:1 and a net density of 35 dwellings per hectare. Given the projected yield for R3 zoned land within the more populous Leppington Major Centre Precinct, it is reasonably expected that land zoned R3 within the Austral and Leppington North Precinct should respond to the planned hierarchy in not exceeding the net density of 35 dwellings per hectare.

2.3 Site affectations

The subject site has only one constraint, which is listed below:

Road Noise / Classified Road

Planning Maps indicate that close to half of the site is affected by Classified Road Noise generated by Bringelly Road, to which any residential development and subdivision is required to respond.

The applicant has provided an Acoustic Report to assess noise attenuation measures for the proposed dwellings, which is supported on merit by Council.

The application was referred to the Roads and Maritime Service for comment, who have responded in support of the application, subject to conditions, including restricting access to Bringelly Road.

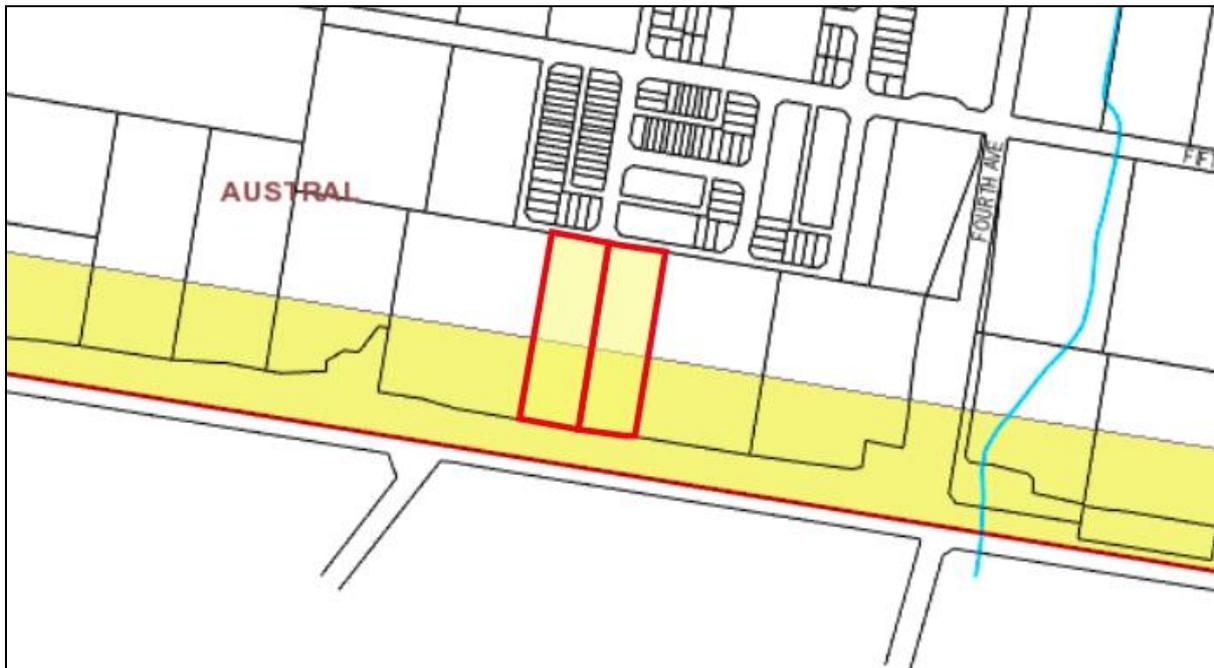


Figure 4: Classified Road Noise affectation of the subject site.

3. BACKGROUND

3.1 Timeline of the Assessment

- i) 2 August 2017
DA-574/2017 was lodged (**Figure 5**).
- ii) 23 August 2017 to 7 September 2017
DA-574/2017 was notified.
- iii) 16 November 2017
DA-574/2017 was considered by the Design Excellence (DEP).

- iv) 1 December 2017
Correspondence was sent to the applicant that raises issues concerning development engineering, environmental health and traffic impacts as well as DEP meeting comments.
- v) 4 December 2017
Correspondence was sent to the applicant that raises issues following a preliminary planning assessment of the application.
- vi) 14 December 2017
Correspondence was sent to the applicant that raises issues concerning flooding.
- vii) 13 February 2018
Applicant provided a response to the above correspondence in the form of a downscaled draft concept for the site (**Figure 6**). No technical details were submitted as requested.
- viii) 18 May 2018
Following a meeting with Council the applicant was advised that Council could not support the downscaled draft concept for the site based on a range of issues as initially raised.
- ix) 6 July 2018
Applicant provided another downscaled draft concept for the site in response to the above meeting (**Figure 7**).
- x) 30 August 2018
Council requested the applicant withdraw the DA as it was not supportable, to which the applicant requested the DA be instead assessed and sent to SWCPP for determination.
- xi) 17 April 2019
SWCPP Briefing was held presenting the DA proposal as originally submitted, as the detail initially requested to enable a full assessment was not provided to Council.

Clarification of the three schemes proposed densities are:

- 1) Figure 5 (DA lodged and assessed)**
145.29 dw/ha (four x 4- storey RFBs)
- 2) Figure 6 (Initial Downscaled concept)**
*Dwelling density not provided
(2 x 4 storey RFBs, 2 x 3 storey RFBs, 28 x 3 storey dwellings & 24 x 2 storey dwellings)*
- 3) Figure 7 (Second Downscaled concept)**
95.33 dw/ha (2 x 4- storey RFBs, 56 x 3 storey dwellings & 24 x 2 storey dwellings)

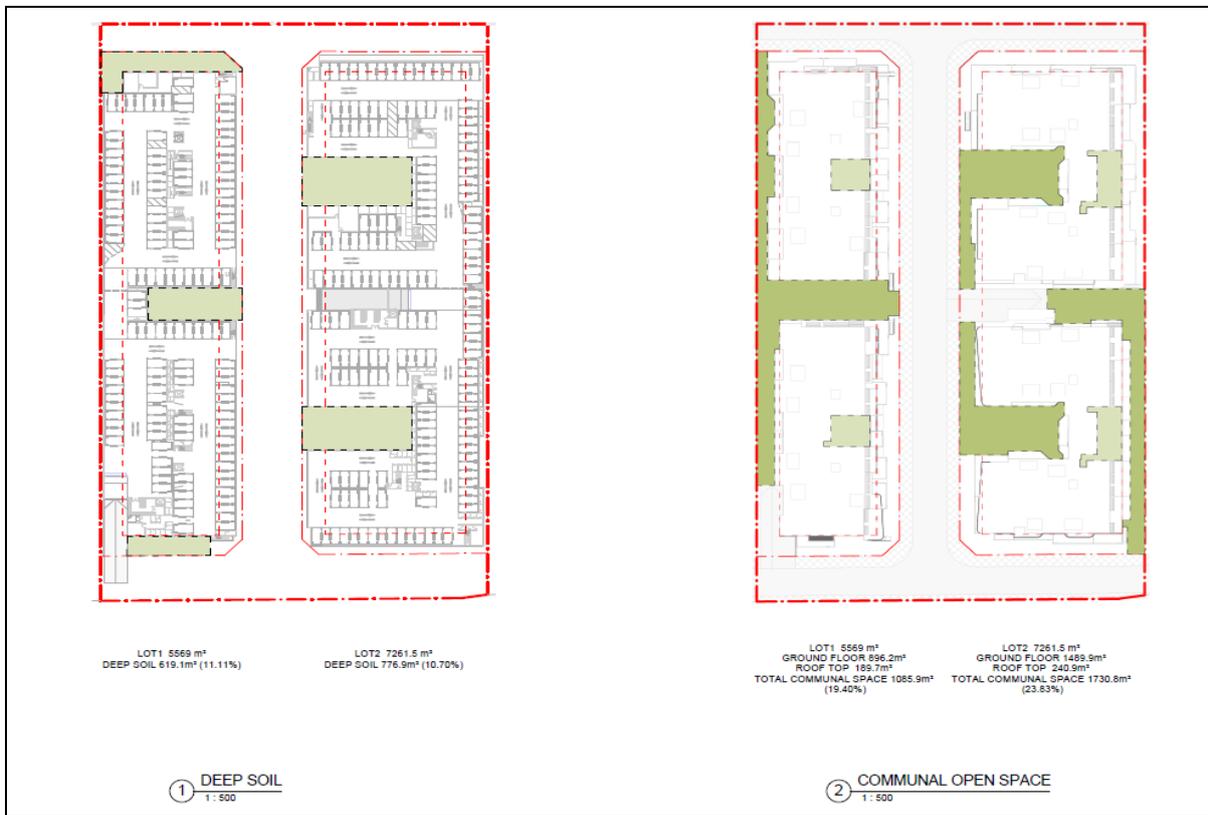


Figure 5: Deep Soil and Communal Open Space Plans showing the 4 RFBs originally proposed

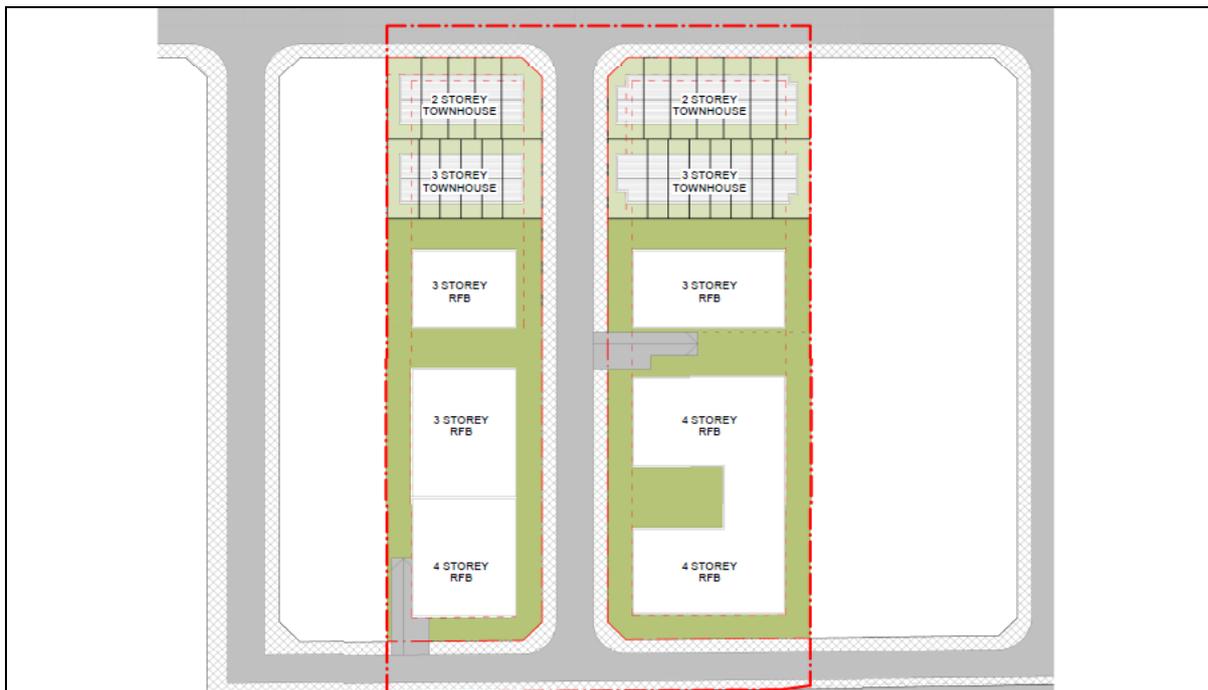


Figure 6: Initial downscaled concept option

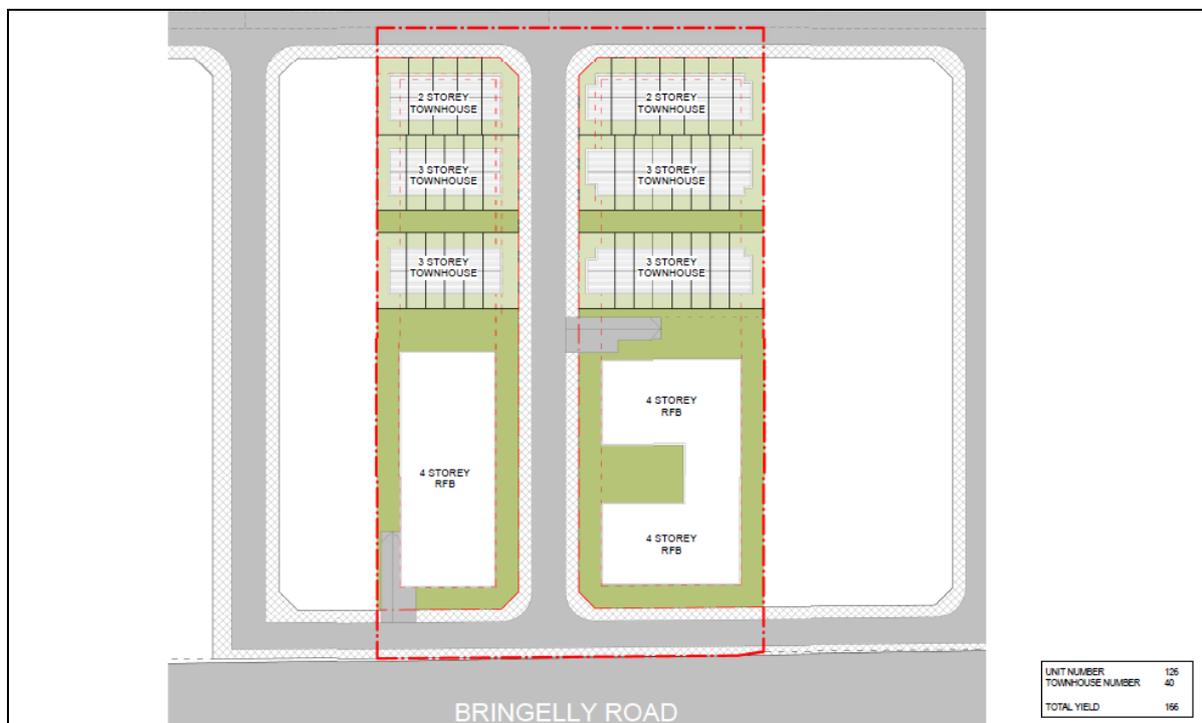


Figure 7: Second downscaled concept option

3.2 Issues Identified in Initial Assessment

Council Initial Request for Information and concern raised regarding proposed development.
(Request for this Additional Detail Sent in December 2017)

Following on from a preliminary assessment of the application, Council sought further information and clarification regarding the following items, (in addition to the comments provided by the Design Excellence Panel (DEP) as presented in Section 3.3 of this report):

1. Non-compliance with SEPP (SRGC)
 - Excessive Dwelling Density pursuant to Clause 4.1B;
 - Excessive Height of Building pursuant to Clause 4.3; and
 - Inconsistency with R3 – Medium Density zone objectives.
2. Non-compliance with Growth Centre Precincts DCP:
 - Inconsistency with Section 3.1.1 Residential Density, in particular with the expected typical characteristics of 25-30dw/ha density band.
3. Issues raised in relation to SEPP 65 and Apartment Design Guide (ADG) assessment :
 - Inconsistency with 3A Site Analysis as the proposal does not address potential future development envelopes for adjoining sites. The mass, scale and overall length of the built form should be appropriately articulated in response to the public domain and intended dwelling density. Further, the proposal would result in the isolation of a part of the adjoining site to the west, as the resulting width of 26m would not be able to support a similar form of development when considering required setbacks. Amalgamation of this adjoining site with the subject site would provide a 65m deep block which could better achieve requirements of the ADG.

- Inconsistency with *3B Orientation* in not maximising northern orientation options, resulting in significant overshadowing to proposed communal open areas.
 - Lack of detail regarding *3C Public domain interface* with respect to provisions of adequate active and passive recreation facilities for the future residents.
 - Inconsistency with *3D Communal and public open space* in not ensuring that communal open is a central feature of the development.
 - Inconsistency with *3E Deep soil zones* where Lot 1 proposes 11.1%, and Lot 2 10.7% of their total areas as deep soil. The ADG promotes large deep soil of 15% on sites over 1500m². Given the lot sizes 15% is a reasonable expectation. The deep soil areas for RFBs must also be in accordance with the Growth Centre DCP (15% required).
 - Inconsistency with *3H Vehicle Access* as the basement car park access from Block A adjoins communal open space and does not meet the guideline of 'separate and distinguishable' access.
 - Inconsistency with *4A Solar Access* in not providing adequate solar access to communal open space.
 - Inconsistency with *4E Private open space and balconies* with instances of non-compliance for balcony size of some 2 bedroom units.
 - Inconsistency with *4F Common Circulation* as Blocks A & B include 19 apartments on a single level serviced by 2 lifts.
 - Inconsistency with *4K Apartment Mix* as the proposal provides 4% of 3 bedroom units.
 - Concern regarding inconsistency with architectural and landscape plans in comparison to engineering plans, rendering objectives of *4O Landscape Design* unachievable. Further, although the site is bio-certified, there are a number of trees near the site boundaries which may be suitable for retention to be accommodated into deep soil zones. The applicant's arborist report states all 177 trees are to be removed.
4. Concerns were also raised by Council's internal referring officers (and forwarded to the applicant) with respect to the following (note – these have not been satisfied as no additional detail regarding these issues was received by Council):
- **Parking and Traffic** - *Council's Traffic Section contends that the incorrect generation rate has been identified by the submitted traffic report and that the additional traffic generation than expected in this locality is unlikely to be supported. Notwithstanding, the transport infrastructure identified in the Growth Centres Contributions Plan is not sufficient to accommodate additional travel demands generated from the subject development and other possible similar development, which exceeds its densities estimated at the precinct planning stage. Density to be revised to achieve a density between 25 and 40 dw/Ha.*
 - **Floodplain Engineering** - *The site is not affected by mainstream flooding. As per submitted overland flow study report, northern section of proposed Road No. 3 is significantly affected by overland flow flooding up to 0.3-0.5m depth for storms from 5yr to 100yr ARI events. Further, proposed Communal Open Space between building blocks C & D is subject to overland flow flood inundation for frequent events such as 5yr ARI event. This is not acceptable. Revised proposals with necessary information satisfactorily addressing issues as outlined below shall be submitted for further assessment of the proposal.*

- i) *Northern section of proposed Road 3 is inundated from storm overflow up to 0.3 -0.5m depth for storms from 5yr to 100yr ARI events. This is not acceptable. Council requires that minor drainage system be designed for 5 ARI event (minimum) with no flooding nuisance and major drainage system to incorporate overland flows up to 100yr ARI events with flood depth not exceeding 0.20m (maximum) on the road & complying velocity-depth safety criteria.*
 - ii) *Revised proposals addressing the overflow flooding issue satisfying Councils design requirement shall be submitted for Councils review and approval. This shall include revised stormwater plans/drawings, updated flood report and post developed flood mapping for all modelled events from 5yr to 100yr ARI events.*
 - iii) *As per provided flood mapping, proposed Communal Open Space between building blocks C & D is inundated from overland flooding (flows from proposed swale) from 5yr to 100yr ARI storm events. The communal open space shall be flood free for frequent flood events minimum up to the 20yr ARI storm.*
 - iv) *Proposed drainage system through the communal space shall be revised/resized as required to capture flows from the swale up to the 20yr ARI events allowing the communal space is flood free. Revised stormwater drainage plans showing pipe sizing with hydrologic/hydraulic calculation shall be submitted.*
 - v) *Electronic copies of updated Drain model and the 2D model with result files shall be provided*
 - vi) *The proposal shall demonstrate (and update the overland flow study report accordingly) that there is no adverse flooding impact on u/s and d/s of the site due to proposed work. Any existing overland flows from adjoining sites shall be accommodated into the proposed drainage system.*
- **Site Contamination** - *The applicant is required to submit to Council a Stage 2 Contamination Assessment to identify whether the site is required to be remediated. Should this be identified as required, then a Remedial Action Plan (RAP) is required.*
 - **Land Development Engineering**
 - *Written consent shall be submitted to Council from the owner(s) of the adjoining land giving consent to carry out the drainage works and to create the easements. Also a plan showing the proposed drainage and associated earthworks shall be signed by the owners.*
 - *Hydraulic design calculations (including electronic copy of DRAINS model) of sizing the proposed stormwater drainage system shall be provided.*
 - *It is required to demonstrate that the levels at entrance to driveway have a minimum freeboard to the flood levels in accordance with Liverpool City Council's stormwater design specification.*

- *The location and details of the proposed two 20 kL rainwater tanks shall provide with stormwater drainage plan.*
- *A minimum carriageway width of 5.5 metres is required for all half-width roads to accommodate two way traffic.*
- *Vehicular access to Bringelly road is denied for local roads and access streets and hence until full and complete dedicated public road access is available to proposed lots the temporary access arrangement is to be provided.*
- *All landscaping work proposed within Bringelly is to be coordinated with RMS streetscape design proposal for the Bringelly Road upgrade.*

Note: The request for adjoining owner's consent to accommodate downstream flows was required with the initial design which proposed discharge into adjoining neighbours land. It was proposed to pipe the flow from the site into a dam on that adjoining site (historical Lot 1129 DP 2475) which is no longer in existence. The adjoining northern sites have been developed with road reserves dedicated to Council. The plans have not been updated to reflect this reality. Accordingly, the civil plans and calculations are required to be revised to reflect the existing downstream scenario.

This additional information was requested to either ensure that all impacts could be maintained on the development site to pre-existing overland flow impact, or that any impact be acknowledged by adjoining owners, and appropriate easements be created over those allotments to benefit the development.

This is further discussed in Section 4 of this report.

3.3 Related applications

a) Pre-DA meetings

PL-36/2017 was held on 12th April 2017 for proposed;

Demolition of existing structures on site and construction of four x four storey residential flat buildings above one storey basement car parking with associated site, drainage and landscape works and communal open space at ground level.

Council officers provided planning advice as follows:

Any development of the site of the nature proposed is required to meet the objectives of the R3 zone. Where the applicant cannot demonstrate how the development would meet the above objectives of the R3 zone, the development is highly unlikely to be supported. It was advised at the meeting that a development over the maximum building height would be highly unlikely to meet the objectives of a medium density zone and that a three storey development would be more appropriate given the site zoning.

Council officers also provided Site Contamination and Floodplain Engineering advice which was requested for after the DA was lodged.

3.4 Design Review Panel Briefing

The subject application was considered by the DEP on 16th November 2017. The DEP were unsupportive of the proposal subject to the following amendments which are summarised below.

“The Design Excellence Panel makes the following comments in relation to the project:

- *Rendering of the proposal indicates that it has some aesthetic merit, however, the density of the scheme is excessive, well beyond the 25 – 30 dwellings/ha proposed the area. This is inconsistent with the strategic direction set for the area and unless there is strategic planning support for a change to the current direction, the Panel is not able to support or provide any meaningful review of the proposal.*
- *The scheme should be re-designed with the intention of making it consistent with Council’s Strategic direction for the area. The Panel provides the following points for consideration in any future re-design:*
 - *The Panel is concerned that the proposal does not adequately address one of the critical issues that the area is facing of urban heat island effect – sufficient vegetation, tree canopy cover and meaningful deep soil zones are not provided within the proposed scheme. These will be a requirement of any future proposal.*
 - *The Panel is not satisfied that the site is located within comfortable walking distances of a train station and essential services to warrant the types of density proposed.*
 - *There appear to be significant deficiencies in common open space and green open space - site coverage proposed is considered excessive.*
 - *Greater emphasis should be given to make the development more pedestrian friendly.*
 - *Consider how built form typologies address the topography of the site and surroundings.*
 - *The provision of functional and meaningful communal and private outdoor space is essential to create a good community. Greater amounts of open space should be provided for the development, both public and private open spaces for residents.*
 - *The proposed development would result in the isolation of the lot to the west of the site and therefore, would potentially affect the development of this adjoining site.*
 - *Consideration should be given to the provision of appropriate building typologies and a mix suitable for the future desired quality of the site.*
 - *Non-compliance with building separation of the ADG on a green field site is not supported.*
 - *RFBs should not be the dominant building typology. They should be modestly scaled and introduced sparingly on key sites such as corners. The character*

of the development should reflect the desired future character of the area (suburban).

Comment: As presented earlier in Section 3.1 of this report, the applicant provided only concept options in an attempt to address DEPs and Council's concerns. Although the overall residential typology was proposed to be amended, the overall residential density was considered too great, and the DA was not re-referred to the DEP.

3.5 Planning Panel Briefing

The subject application was considered by the Sydney Western City Planning Panel (SWCPP) on 17th April 2019. The SWCPP were unsupportive of the proposal and provided the following commentary for Council consideration:

- *The Panel endorses the Council assessment staff's concerns raised in the briefing report as the inappropriate form, scale and density of the proposed development within an R3 zone in this locality (irrespective of the merits of the generally good design of the buildings in other respects).*
- *The Panel has repeatedly identified its concerns about the lack of planning guidance to both the consent authority and applicants assist the assessment of appropriate densities for such applications.*
- *The appropriate density for the site is a threshold issue for consideration of this DA. A difficulty arises because there is only a minimum density fixed for the R3 zone by clause 4.1B Residential Density of State Environmental Planning Policy (Sydney Region Growth Centres) 2006, a minimum which applies generally to the whole of the R3 zones across the Growth Centres. There is also no specific guidance in any other form under SEPP as to appropriate limits on density. The crucial issue of the appropriate density is therefore currently left to be resolved by reference to likely available infrastructure, character of the area and estimates of the intended density made with reference to the projected populations. These are not precise guides and cause uncertainty not only for planning regulatory authorities, but also for developers.*
- *In response to the questions asked of Council planning staff, the Panel understand Council to have estimated an appropriate maximum yield for the R3 zone generally, but with that maximum only achievable where the development can demonstrate that the relevant site is adequately serviced by local infrastructure and services. The likely and desired future character of the area to the extent that it can be predicated will also be relevant. Without reaching any conclusion on the issue, the Panel accepts those matters to be reasonable consideration in assessing density in the absence of more specific guidance.*
- *While awaiting specific direction from the Department, the Panel suggests that the Council might usefully consider preparation of a consolidated statement of the planning considerations which the Council planning staff see as relevant to determining appropriate densities when assessing medium density applications in the R3 zone (possibly to be referred to the elected Council for endorsement).*
- *The Panel questioned whether the central road within the development (which seemed to be a significant reason for block arrangement of buildings on the site) was necessary. There seemed to be arguments available for varying the DCP Indicative Road Layout to delete the road, with the additional area permitting a more creative design.*

Comment - Council generally concurs with the commentary provided by the SWCPP but makes the following pertinent comments to the briefing report:

- Council Planning staff informs the SWCPP that the desired density for R3 zoned land in the Austral and Leppington North would be to retain consistency with the target density band of 25-30dw/ha, to be encouraged to transition up to a maximum of 40dw/ha in certain specific instances and only in response to locality and context (such as adjoining major transport corridors and local and neighbourhood centres). This is to be achieved using the typical characteristics controls in the Growth Centres DCP through the provision of a mix of dwelling typologies, to enable coherent transition from low to medium residential density, such that it creates an orderly transition in the streetscape and built environment. Council does not support any density in an R3 zone greater than 40dw/ha, as it is considered that any residential density greater than 40dw/ha is suitable only for R4 High Density and commercial core / mixed use zones.

Please note that the maximum of 40dw/ha figure for a medium density residential area is obtained directly from the *Growth Centres Development Code*, published by the Growth Centres Commission in November 2006. This Code created the basis for the development standards and controls subsequently adopted for the entirety of the North-west and South-west growth areas of Sydney, pursuant to SEPP SRGC.

- The specific Precinct Plans subject to the Liverpool Growth Centre provide instructive direction regarding desired densities and density transition, in response to locality and context, and require that Council considers them over time. Austral and Leppington North Precinct has a specific dwelling target and population target as informed by the *Austral and Leppington North Planning Report*, published in 2011 by the then NSW Department of Planning and Infrastructure. Council is not aware that any of the structural planning in that report has been adjusted since, and that the only Precinct currently under review is that of the Leppington Major Centre, which this application is not subject to.
- Council's internal departments do not support the deletion of roads from the ILP. A more orderly and coherent approach to the development of the growth areas over time, especially that of land to be dedicated to Council, is to provide certainty to planners, land owners, investors and developers as to the need for the street layout to remain as consistent as possible.

Taking the example of Edmondson Park, Council's planning staff experience has been that early departure from the structural plans, including indicative road layout to accommodate development, has resulted in continual adjustment of roads to ensure viability of adjoining land. The administering of which is problematic and piece-meal, and has resulted in many substandard outcomes with respect to pedestrian permeability and street network function.

- Council acknowledges the absence of an upper limit for residential density in the Growth Centres. It appears that the absence of such a limit has been interpreted as an indication that a density in excess of the minimums is regarded as a positive outcome, given that it contributes to housing in the Growth Centres. Notwithstanding

this, in the context of all relevant information concerning the Growth Centres, it is clear that the residential density of a development is subject to multiple factors, including but not limited to character, scale and height of development, as well as existing population projections coupled with identified infrastructure requirements based on these projections. Council acknowledges the comments provided by the SWCPP and advises that Council will continue to investigate options with the Department of Planning & Environment in order to publish a guide for external stakeholders on appropriate residential densities.

4. DETAILS OF THE PROPOSAL

The application proposes the demolition of existing structures and the construction of four x 4-storey residential flat buildings containing 253 residential apartments, basement carparking and associated landscaping and torrens title subdivision, over two stages (view figure 8). Details of the stages of proposed development are provided below:

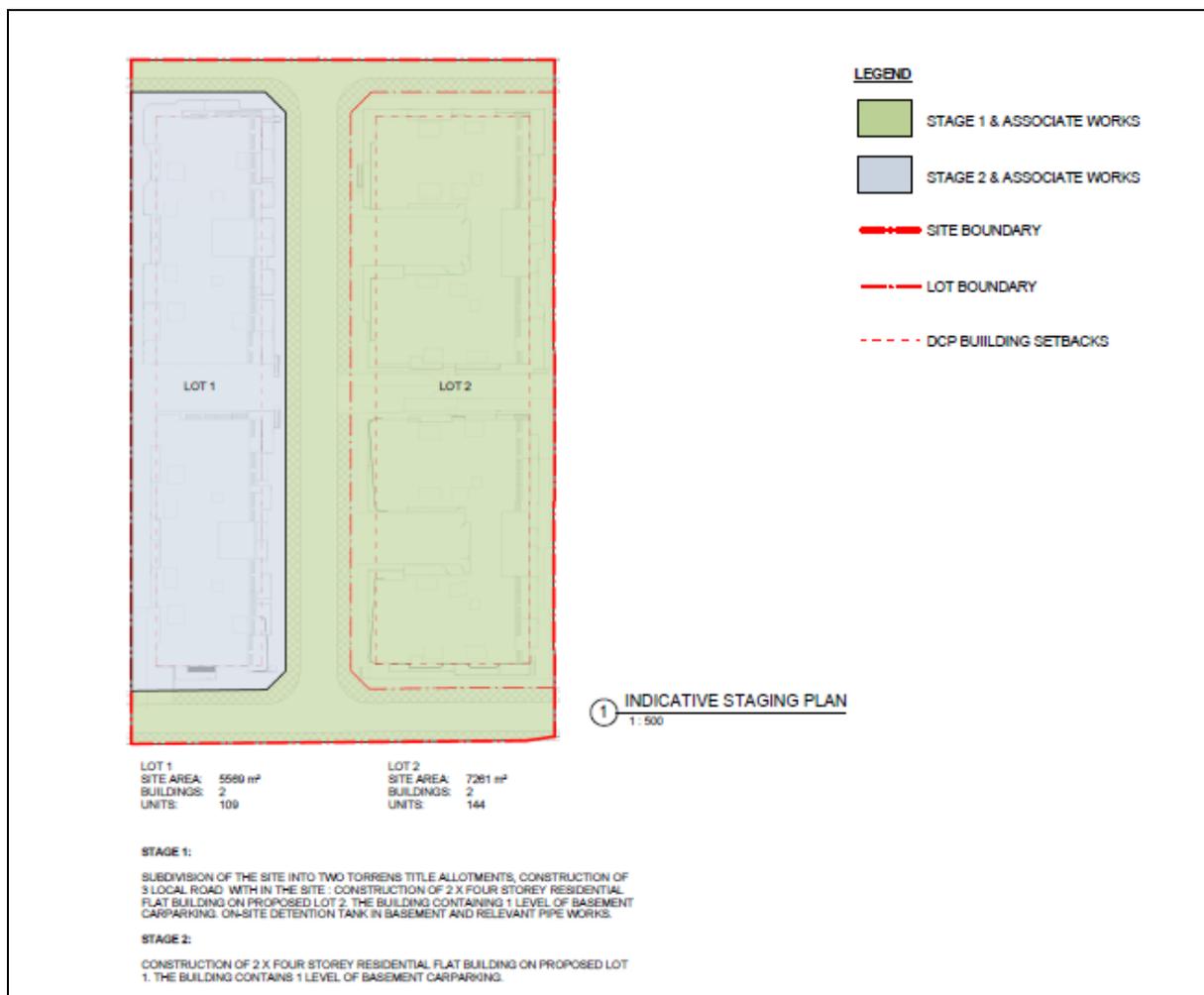


Figure 8: Stages of Subdivision and Works Plan

Stage 1

Demolition

- Demolition of two dwellings and ancillary structures and removal of all vegetation from the site.

Subdivision

- Amalgamation of the two lots and subsequent subdivision into two Torrens Title allotments:
 - Lot 1 = 5569sqm (western lot)
 - Lot 2 = 7261.5sqm (eastern lot)

Construction of Roads

- Construction of half road (8m) along the northern boundary of the site (Crop Avenue)
- Construction of a full road (16m) north-south through the central part of the development site (Scion Street)
- Construction of a full access road (13.1m) along the southern boundary of the site (Silo Street)

Construction of RFBs

- Construction of Block A (southern building of Lot 2) and Block B (northern building of Lot 2)
- Both Block A and B buildings are designed in a four storey courtyard building form, with communal open space area located in the centre of the building and oriented to the west.
- Each building provides 72 apartments comprised of:
 - 12 x 1 bedroom units;
 - 59 x 2 bedroom units;
 - 1 x 3 bedroom unit

Parking Provisions and Basement Design

- The buildings share one level of basement car-parking with the breakdown of allocation as follows;
 - Block A: 86 car spaces distributed as follows;
 - 64 residential car spaces
 - 8 accessible spaces
 - 14 visitor spaces
 - Block B: 87 car spaces distributed as follows;
 - 64 residential car spaces
 - 8 accessible spaces
 - 15 visitor spaces
- Vehicular access to the basement car-park is via a 6m wide two way movement driveway ramp which is accessed from the north-south road known as Scion Street.
- The basement also includes 24 bicycle spaces below Block A and 28 bicycle spaces below Block B, a pump room, on-site detention tank, access to two lifts and fire stairs, switch room and two garbage rooms.

Stormwater Design

- On-site detention (OSD) tank to be located in the basement with design of the proposed facility to be undertaken at Construction Certificate Stage. Apart from the OSD systems, the proposed development is to rely upon a swale constructed along the western boundary to accommodate overland flows. The design indicates that stormwater will be discharged onto adjoining neighbours site via a pipe into an existing dam.

Note: As discussed in Section 3.2 of this report, Council's Land Development and Floodplain Engineers considered the proposed detail insufficient to assess compliance with Council's Flood and Water Cycle Management policies. Additionally, an adjoining owner's consent was required which was not provided, and which is required even if the stormwater concept is amended. An extract of the design infrastructure and calculations is shown in Figures 11 and 12.

Site Service Facilities

- Two garbage bin storage areas have been provided in the basement with a bin holding room located adjacent to the basement driveway ramp. A loading dock is proposed in front of the bin holding room.

Pedestrian Access

- Pedestrian access to both buildings is designed to allow direct access from street level to some of the ground floor unit private open spaces, with others serviced by a walkway along the eastern boundary. Each building has one main entry to the elevator lobbies of which there are two per building.
- Each lift services a maximum of 10 units per floor.

Communal Open Space

- Communal open space is located on the Ground level in front of the main entry to the buildings and is oriented to the west, with additional 118sqm of Communal Open Space provided on Level 3 along the eastern boundary of the development site. Deep soil and landscaped areas are located in the location of the Communal Open Space and in some side, front and rear setbacks.

Landscaping

- Landscaping consists primarily of native tree and shrub-like species planted along all boundaries, as well as surrounding the private courtyards of the ground floor units, and within the Communal Open Space areas.

Stage 2

Construction of RFBs

- Construction of RFBs for Block C (southern building of Lot 1) and Block D (northern building of Lot 1)
- Both Block C and D buildings are designed in a four storey row building form, with communal open space area located between the buildings.

- Building C provides 54 apartments comprised of:
 - 12 x 1 bedroom units;
 - 38 x 2 bedroom units;
 - 4 x 3 bedroom units.
- Building D provides 55 apartments comprised of:
 - 11 x 1 bedroom units;
 - 40 x 2 bedroom units;
 - 4 x 3 bedroom unit.

Parking Provisions and Basement Design

- The buildings share one level of basement car-parking with the breakdown of allocation as follows;

Block C: 69 car spaces distributed as follows;

- 54 residential car spaces
- 5 accessible spaces
- 11 visitor spaces

Block D: 66 car spaces distributed as follows;

- 49 residential car spaces
- 6 accessible spaces
- 11 visitor spaces

- Vehicular access to the basement car-park is via a 6m wide two way movement driveway ramp which is accessed from the access road known as Silo Street.
- The basement also includes 15 bicycle spaces below Block C and 18 bicycle spaces below Block D, a pump room, switch room, on-site detention tank, access to two lifts and fire stairs, and two garbage rooms.

Stormwater Design

- On-site detention tank to be located in the basement.
- On-site detention (OSD) tank to be located in the basement of RFBs with design of the facility proposed to be undertaken at Construction Certificate Stage. The swale constructed along the western boundary to accommodate overland flows is proposed to be incorporated into the design of the buildings and communal open space. Stormwater to be discharged into existing stormwater system from Stage 1.

Note: Apart from concerns raised regarding the design of stormwater works in Stage 1, additional concern is raised regarding clarity of how it shall be achieved during Stage 2, as it is considered unlikely that the swale could be incorporated into the design of the buildings and communal open space including pathways during their construction, as presumably it would be required to function during construction of the development which includes a large basement.

An extract of the design infrastructure and calculations is shown in Figures 11 and 12.

Site Service Facilities

- Two garbage bin storage areas have been provided in the basement with a bin holding room and bulky waste room located adjacent to the basement driveway ramp. A loading dock is proposed in front of the bin holding room.

Pedestrian Access

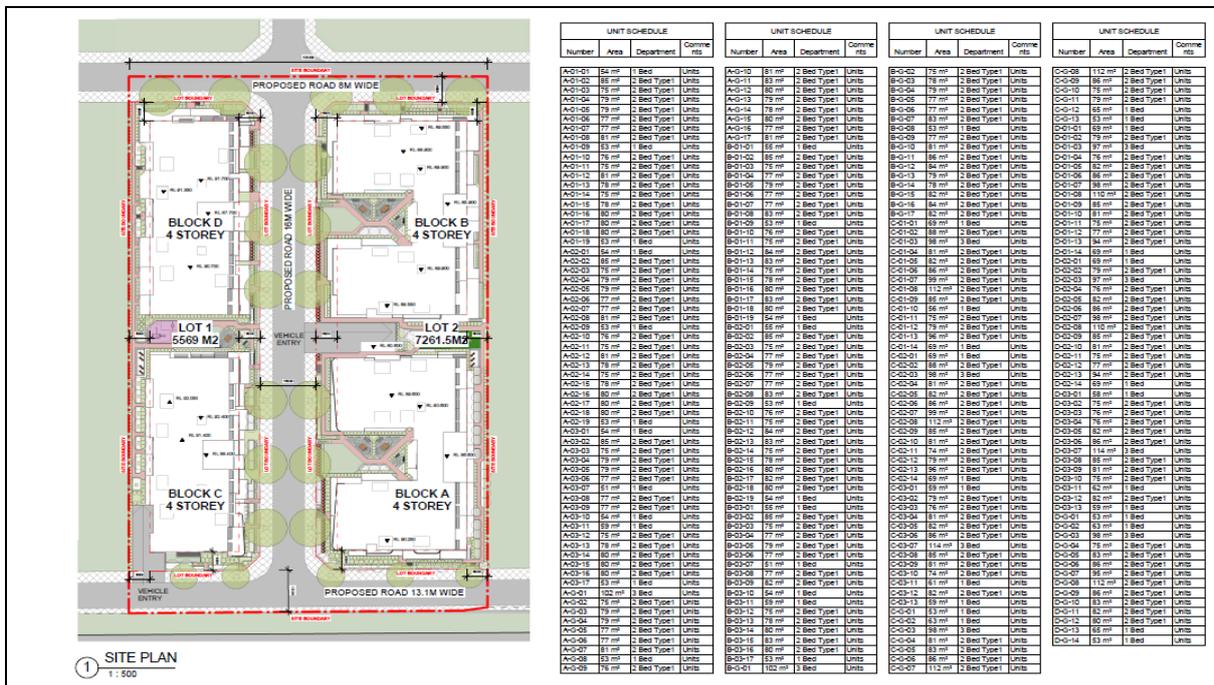
- Pedestrian access to both buildings is designed to allow direct access from street level to some of the ground floor unit private open spaces, with others services by a walkway along the western boundary. Each building has one main entry to the elevator lobbies of which there are two per building.
- Each lift services a maximum of 7 units per floor and extends across all levels including basement.

Communal Open Space

- Communal open space is located on the Ground between the two buildings with additional 96sqm of Communal Open Space provided on Level 3 facing Scion Street. Deep soil and landscaped areas are located in the location of the Communal Open Space and in some side, front and rear setbacks.

Landscaping

- Landscaping consists primarily of native tree and shrub-like species planted along all boundaries, as well as surrounding the private courtyards of the ground floor units, and within the Communal Open Space areas.



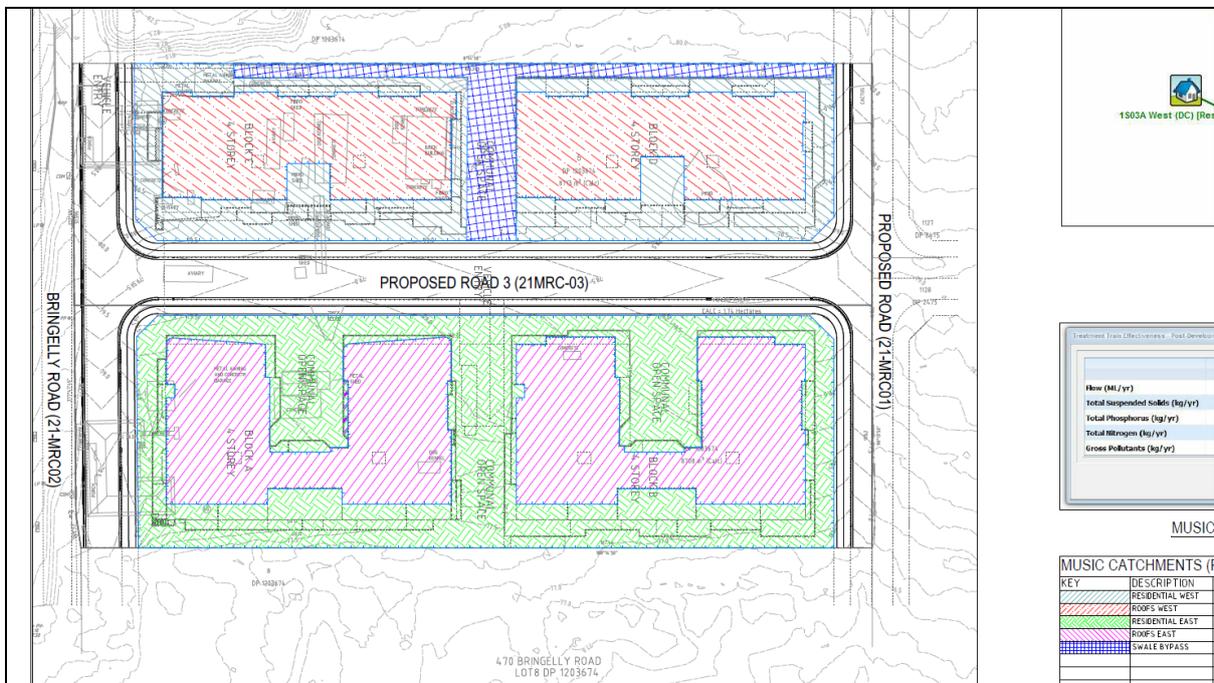


Figure 12: Swale bypass (blue hatched) shown along western boundary in proposed location of a commonly accessed pathway and over communal open space.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development.
- State Environmental Planning Policy No.55 – Remediation of Land.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- State Environmental Planning Policy (Infrastructure) 2007;
- Greater Metropolitan Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No2 – 1997)

Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

Other Plans and Policies

- Apartment Design Guide;
- Austral and Leppington North Precinct Planning Report

Development Control Plans

- Liverpool Growth Centre Precincts DCP 2016
 - Part 1 – Introduction
 - Part 2 – Precinct Planning Outcomes
 - Part 3 – Neighbourhood and subdivision design
 - Part 4 – Development in the residential zones

Contributions Plans

- Liverpool Contributions Plan 2014 – Austral and Leppington North applies to the proposed development
- Special Infrastructure Contribution Levy

6. ASSESSMENT

The development application has been assessed in line with the relevant matters of consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* as follows:

6.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

(a) State Environmental Planning Policy (Sydney Region Growth Centre) 2006

(i) Zoning

The site is zoned R3 Medium Density Residential pursuant to Appendix 8 in SEPP (Sydney Region Growth Centres) 2006 as depicted in Figure 13.



Figure 13. Extract of SEPP SRGC 2006 zoning map

(ii) Permissibility

The proposed development is defined as a 'Residential flat building' which is permissible within the R3 Medium Density Residential zoning.

(iii) Objectives of the zone

Objectives of the R3 Medium Density Residential Zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To support the well-being of the community by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment*

The proposed development does not achieve and is inconsistent with the objectives of the R3 zone in that:

- The proposed development does not promote a medium density residential environment, as the proposed dwelling density and built form instead would result in development more akin to that within a High Density Residential environment usually associated with an R4 zone or a city centre / commercial core, of which there are no instances within the Austral and Leppington North Precinct.
- Despite there being numerous types of residential accommodation that are listed as 'Permitted with consent' for the R3 Zone, including (but not limited to) attached dwellings, boarding houses, dual occupancies, dwelling houses, group homes, manor homes, residential flat buildings, secondary dwellings, semi-detached dwellings, seniors housing and studio dwellings, the proposed development does not provide a variety of housing types within a medium density environment, rather providing only for a *Residential Flat Building* housing type on the site, which would result in a high density residential environment.

The inconsistency with the zone objectives is a reason for refusal of this DA.

(iv) Summary of Relevant SEPP (Sydney Region Growth Centre) 2006 Provisions

The SEPP (Sydney Region Growth Centre) 2006 contains a number of provisions which are relevant to the proposal. Assessment of the application against the applicable provisions is provided below.

Clause	Provision	Proposed	Comment
4.1 Minimum Subdivision Lot size	The site is subject to a minimum lot size of 2000sqm in an area with minimum dwelling density of 25dw/ha for a residential flat building	Lot 1 = 5569sqm Lot 2 = 7261.5sqm	Complies

<p>4.1B Residential Density</p>	<p>The site is subject to a minimum dwelling density of 25dw/ha</p> <p>The objectives of the clause are to:</p> <p>(a) To establish minimum density requirements for residential development, and</p> <p>(b) To ensure that residential development makes efficient use of land and infrastructure, and contributes to the availability of new housing, and</p> <p>(c) To ensure the scale of residential development is compatible with the character of the precinct and adjoining land</p>	<p>25dw/ha requires a minimum of 44 dwellings over 1.7414ha</p> <p>253 dwellings proposed which is a density of 145.28 dw/ha and is considered to be excessive.</p> <p>The objectives of this clause cannot be complied with given the excessive density proposed.</p>	<p>Does not comply with the clause objectives.</p> <p>Discussion is provided below this table</p>
<p>4.3 Height of Buildings (as per HOB Map)</p>	<p>1) The objectives of this clause are as follows:</p> <p>(a) To establish the maximum height of building,</p> <p>(b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space,</p> <p>(c) to facilitate higher density development in and around commercial centres and major transport routes.</p> <p>2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map – 12m for this</p>	<p>13.1m at highest point</p> <p>The objectives of this clause cannot be complied with given the excessive height proposed.</p>	<p>Does not comply</p> <p>Discussion provided below this table.</p>

	site.		
4.6 Exceptions to Development Standards	Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.	4.6 Exceptions to Development Standards written request received from applicant	Does not comply. Discussion is provided below this table
5.9 Preservations of trees or vegetation	Provided when consent is required to be granted subject to the provision of this clause to remove trees or vegetation.	The location of the proposed works is identified as 'certified' pursuant to the Sydney Region Growth Centres 2006 Biodiversity Certification Order. Although enabling the removal of vegetation under this Biodiversity Certification Order to accommodate the development, the applicant has not made any attempt to incorporate any existing trees within the development, which would be considered a reasonable response to the site, given the large size of the lots and the ability to orientate new development around such vegetation. The submitted arborist report does not sufficiently explain why the trees cannot be retained, and suggests that trees on an adjoining site are unlikely to survive the carrying out of work associated with the proposal.	Does not comply
6.1 Public Utility Infrastructure	The consent authority must not grant development consent to development on land to which this Precinct Plan applies unless it is satisfied that any public utility infrastructure (supply of water, electricity and disposal/management of sewage) that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required	Comments have been received from Sydney Water confirming the availability of public utility infrastructure (water supply and sewer). Council shall provide a condition of consent to ensure the developer connects each lot prior to the issue of a subdivision certificate, in accordance with Sydney Water Requirements. Comments have not been received from Endeavour Energy. Even so, given previous comments confirming the availability of public utility	Complies by condition

		infrastructure on adjoining sites, Council would condition any consent to ensure the developer connects the land in accordance with their requirements.	
6.3 Development Controls – Existing Native Vegetation	The consent authority must not grant development consent to 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)	The proposed development would 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).	Complies

(1) Non-compliance with Clause 4.1B Residential Density

The objectives of this clause cannot be complied with given the excessive density proposed, such that;

- objective (b) cannot be complied with as the development would result in a completely inefficient use of land in that it would result in the burdening of the level of infrastructure planned for (and which are not yet in place) in the precinct,
- objective (c) cannot be satisfied in that the residential development proposed is not compatible in scale with the precinct as provided for in the Precinct Plan and is not in character with either the desired future character nor that of recently approved development on adjoining land.

(2) Non-compliance with Clause 4.3 Height of Buildings

The objectives of this clause cannot be complied with given the excessive height proposed, such that;

- Objective (a) cannot be complied with as the maximum height set by the height of building map in development standard (2), being 12m, is exceeded.
- Objective (b) cannot be complied with as the visual impact of the proposal and the impact to the adjoining development and land in terms of solar access to buildings and open space for future residential development, is unreasonably exacerbated by the height exceedance.
- Objective (c) cannot be complied with as the variation proposed does not result in a development that is appropriate for the locality, as the height controls seek to limit development which is not in and around a commercial centre and major transport route, where higher density development is expected.

(3) Non-compliance with objectives of 4.6 Exceptions to Development Standards

The Applicant has submitted a written request to vary Clause 4.3 – Height of Buildings in accordance with Clause 4.6 in Appendix 8 of the Growth Centres SEPP. The consent authority, **would not** be satisfied that the applicant's written request under Clause 4.6 in

Appendix 8 of the Growth Centres SEPP has adequately addressed the following matters required to be demonstrated:

- a) that the extent of the non-compliance is reasonable;

as the development achieves appropriate building envelopes and separation to the adjacent future residential land, and does comply with solar access, cross ventilation, site coverage, landscaped area, communal open space, and deep soil requirements.

As is established further in this report, the development application does not fully comply with solar access requirements and is considerably deficient in the required amount of landscaped and deep soil area, and communal open space. As such, the additional variation to height exacerbates the impacts of the development and the justification statement made by the applicant regarding otherwise full compliance cannot be relied upon to satisfy Clause 4.6.

- b) that compliance with the development standard in Clause 4.3 of Appendix 8 of the Growth Centres SEPP is unreasonable or unnecessary in the circumstances of the case. To justify the variation, the applicant relies upon the first of the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council* (2007) LEC 827, which is provided below as follows;

The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable.

The applicant suggests that in this instance the height exceedance is reasonable as it meets the objectives of Clause 4.3, as follows;

The site is located within the South West Growth Centre in an R3 Medium Density Residential zoned area. The subject site and its surrounds are to be the subject of extensive development in accordance with new land releases over the next 20 years.

It is worth noting other applications at Council within R3 Medium Density Residential zoning in the same Precinct that are also for similarly sized residential flat buildings.

Residential flat buildings are permissible with consent in the zone. The proposal is in accordance with the Indicative Layout Plan in terms of density. A 12m building height establishes a potential four storey maximum height, given a 3m floor to floor height. The proposal is for such a development.

The proposed development has had regard to the surrounding potential land uses and meets all separation requirements. Refer to the architectural plans and shadow diagrams. Much of the shadows caused by the development falls to the south across the access road parallel to Bringelly Road that will be constructed as part of this proposal. Future adjoining development will not be unreasonably impacted by the proposed development.

The subject site is located within 1.4km of Leppington Station and currently fronts Bringelly Road, the major through road in the area toward Liverpool. As such, the development is a medium density development within the vicinity of major transport routes.

In response to the applicant's submission, Council does not accept that strict compliance with the acceptable height standard is unreasonable and unnecessary for the following reasons;

- The site and its surrounds are to be the subject of extensive development, but only by being consistent with the R3 Medium Density Residential Zone objectives, which requires consistency with the structure of the Precinct Plan. The Precinct Plan provides target dwelling and population yields.

It is considered that the proposed density which the height exceedance contributes to, is excessive. As such, the applicant in essence proffers an alternative means that undermines the planning objectives rather than achieve them.

It is considered that the rationale as established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* for such development as proposed would ultimately render the *ends* (being the *planning objectives*) impossible to achieve without significantly scaling back residential development on other land in the locality. Such an approach to the standards would have a significant impact on the development potential of that land to be developed in the future, and not as intended by the Precinct Plan.

- The subject site is not in and around a commercial centre. Objective (c) is not achieved as higher density development as set by higher maximum building limits is required to be *in and around a commercial centre and major transport route*, not either / or. The distance to Leppington Station which is to be surrounded by a future commercial centre at 1.4km is not considered to be in an around.
 - Further, exceedance of the height standard is particularly unacceptable in circumstances where the site is a green-field site that is entirely undeveloped without any material site constraints to affect the design and construction to fully comply. In that regard, the design of the proposed development should better respond to the topography of the site, and it is considered that compliance with the height standard is neither unreasonable nor unnecessary.
- c) that there are sufficient environmental planning grounds to justify contravening the development standard in Clause 4.3. As shall be discussed further in the report with respect to the planning controls in the DCP, the development does not comply with the desired dwelling typology and streetscape characteristic, including the desire for limited RFBs of appropriate size with a maximum of 3 storey RFBs.
- d) the proposed development is in the public interest because it is consistent with the objectives of the standard in Clause 4.3 in Appendix 8 of the Growth Centres SEPP, and with the R3 zone objectives.

The applicant proposes this as;

The provision of additional residential accommodation in the Austral & Leppington North Precinct fulfils the purpose of the land release, to provide for the housing needs of Sydney residents in the future. The proposed residential flat buildings are at a medium density scale in a medium density area.

As established in this report, it is considered that the development is inconsistent with what is expected for a medium density environment, that it should not result in an exceedance to a height standard, and that it is not consistent with the planning for the precinct which provided specific target dwelling yields.

It is considered this development is not in the public interest as it would set an undesirable precedent likely to place a burden on infrastructure not commensurate with that which has been planned for the locality, and which would ultimately result in disorderly and incoherent development, which is not envisioned or enshrined in the SEPP SRGC.

Having regard to the above assessment, the proposal although permissible in the zone is considered inconsistent with the objectives of the zone and proposes variations to the development standards in the SEPP which are unsupportable, in particular as they are inadequately addressed or justified.

Please note that the Liverpool Local Environmental Plan does not apply to this proposal as the land is located within a Growth Centre Precinct and the SEPP prevails over the LEP. It is instead assessed against the SEPP and the Growth Centre DCP.

(b) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential apartment development. SEPP 65 requires Council to consider the development against 9 key design quality principles; and against the guidelines of the associated Apartment Design Guide (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

The nine key design quality principles that must be considered are listed below.

- | | |
|--------------------------------------|---|
| 1. Context & Neighbourhood Character | 5. Landscape |
| 2. Built Form & Scale | 6. Amenity |
| 3. Density | 7. Safety |
| 4. Sustainability | 8. Housing Diversity & Social Interaction |
| | 9. Aesthetics |

Assessment of the application against the principles of SEPP 65 and the guidelines of the ADG, together with advice from Council’s independent Design Excellence Panel (DEP) has concluded that the proposal is generally not satisfactory with respect to the provisions of SEPP 65 and the guidelines of the ADG, and that the designing Architect’s (Dreamscapes Architects) Design Verification Statement does not sufficiently consider the Design Quality Principles, in particular that of Principle 3 – Density, as the proposed density is inconsistent with the area’s existing or projected population.

The assessment of the proposal is presented in the following table.

SEPP 65 Design Quality Principles table

Principle	How does the development address the principles?
<p>Principle 1: Context and Neighbourhood Character</p>	<ul style="list-style-type: none"> The immediate locality is semi-rural but is in transition consistent in nature with the R3 – Medium Density Residential zoning under SEPP (Sydney Region Growth Centre).

<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character.</p> <p>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<ul style="list-style-type: none"> • This transition is considered to be relatively slow as approximately 10-15% of land in the suburb of Austral has been subject to development approval and development since the first approval in late 2015. As a result, services and infrastructure are not being developed at a rate considered appropriate to support such a high yielding development as proposed. • To this point in time, Council has not approved any Residential Flat Buildings in an R3 zone under that SEPP in this Precinct. Thus far, the only types of residential development approved in R3 zoned land in the locality has been detached and attached small lot housing on separate Torrens Title and rear loaded lots, with a density generally between 25-35dw/ha. • The future desired character of the immediate locality is medium density residential living as required by the zone objectives. The proposal, which is akin to development anticipated in a high density or mixed use zone, does not demonstrate how it responds to the future desired character of the neighbourhood, or even to the approved small lot housing developments on land adjoining to the north. • The proposed development does not respond to the adjoining western site, in that it will restrict the potential of the site to redevelop by causing a part of it to be isolated between the property boundary and a required future road. The applicant has not responded to this specific local context and a more orderly and coherent approach would be to leave part of the proposed developable land residue until such time as an appropriately designed development can incorporate the affected land on the adjoining site. <p><u>Conclusion:</u></p> <p>As such it is considered the development does not respond or positively contribute to the existing, emerging and desired context. Further, as residential development in the locality is in its early stages, it is considered that the development would have the potential to create an undesirable precedent not consistent with the intent of Principle 1, which seeks that applicants propose well-conceived development in response to local context.</p>
<p>Principle 2:</p> <p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p>	<ul style="list-style-type: none"> • The development does not comply with the height development standard for the site of 12m, with a maximum height of 13.1m • Council's future vision for this area is buildings at a maximum height of 12m and to be a maximum of 3 storeys. • Exceedance of the height control is particularly unacceptable in circumstances where the site is a greenfield site that is entirely undeveloped without any material site constraints to affect the design and construction to fully comply. In that regard, the design of the proposed development should better

<p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>respond to the topography of the site and be reduced.</p> <ul style="list-style-type: none"> • The proposed 4 storey built form is considered an overdevelopment of the site and is causal in contributing to an excessive adverse impact on adjoining residentially zoned land. It is expected that the development will result in overshadowing, privacy and visual impacts greater than that anticipated were the development to fully comply with the relevant height and building form controls. • The 4 storey built form for each of the 4 buildings proposed is inconsistent with the desired future streetscape and character which anticipates single and double storey dwellings with some 3 storey buildings. • As advised by the DEP, <ul style="list-style-type: none"> - <i>RFBs should not be the dominant building typology. They should be modestly scaled and introduced sparingly on key sites such as corners. The character of the development should reflect the desired future character of the area.</i> <p><u>Conclusion:</u></p> <p>As such it is considered the development does not achieve a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p>
<p>Principle 3: Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<ul style="list-style-type: none"> • The proposal would provide a density of 145.29 dw/ha where the minimum required is 25 dw/ha. • The proposed density is inconsistent with the area's existing or projected population for Austral and Leppington North, and in particular for the future suburb of Leppington North in which this proposal is located. Further, as the subject site is outside of the Leppington Major Centre Precinct, it should not rely upon the future development potential of that land, which is planned to achieve its own minimum population yields. • The target population for Leppington North is 33,000 people which equates to 12,000 dwellings as was forecast in the <i>Austral and Leppington North Precinct Plan</i>, and which informed the controls for the DCP. All attributable Developer Contributions for the delivery and projected capacity of business zones, school zones, community and public land, and for services and infrastructure is calculated upon this, at a per dwelling rate, capped by the NSW State Government. • The proposal would create an undesirable precedent which has the potential to result in a dwelling density within the locality which would place an undue impact on the existing and planned infrastructure (as provided for in the Growth Centres Contributions Plan), such that it would render the development of the precinct over time inefficient, and continually requiring infrastructure

	<p>upgrade in response to excessive developments not planned for.</p> <ul style="list-style-type: none"> • The DEP is not satisfied that the site is located within comfortable walking distances of a train station and essential services to warrant the types of density proposed. • The proposed density is not anticipated and therefore inappropriate with respect to the amenity of residents across the locality, in particular with respect to existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment. <p><u>Conclusion:</u></p> <p>It is considered the proposal does not adequately address whether the proposal is consistent with the intent of Principle 3 in ensuring that residential development is appropriate to the future context for the growth area.</p>
<p>Principle 4:</p> <p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.</p>	<ul style="list-style-type: none"> • The proposal aims to provide an environmentally friendly development subject to SEPP BASIX requirements. • Irrespective of the potential to provide for sustainability measures to the proposed developments, the excessive bulk, scale and density of the development would result in an environment completely altered from its current vegetated form, with minimal deep soil zones which could otherwise be provided for in an improved design. • The proposal does not respond to the aspect of liveability of residents with respect to reducing reliance on technology and operation costs to achieve good residential amenity. It should be considered in the concept of the design, that the local climate is significantly different to that of coastal land, and that in this part of Sydney (western localities) extreme heat conditions (with no relief from sea breezes), have been notable and have been able to persist for multiple days on end, in the time preceding the lodgement of the DA and since. This results in a reliance upon the use of technology to achieve that liveability and increases the cost of living, which is an issue the design of the development should be seeking to address. • Further, the DEP <ul style="list-style-type: none"> - <i>is concerned that the proposal does not adequately address one of the critical issues that the area is facing of urban heat island effect – sufficient vegetation, tree canopy cover and meaningful deep soil zones are not provided within the proposed scheme. These will be a requirement of any future proposal</i> <i>and,</i> - <i>There appear to be significant deficiencies in common open space and green open space - site coverage proposed is considered excessive.</i>

	<p><u>Conclusion:</u></p> <p>Although the proposal could theoretically comply with the minimal design requirements for energy efficiency and water management across the site, it is considered that the excessive nature and design of the development would contribute to undermining the intent of Principal 4, as stated above.</p>
<p>Principle 5:</p> <p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.</p>	<ul style="list-style-type: none"> • The landscape design has been prepared in co-ordination between the architect and a Landscape Architect and otherwise meets the minimum level of detail expected to assess the quality of the development in its entirety. • Irrespective of this, the excessive nature of the development renders an assessment of the virtues of the proposed landscaping meaningless, as the precinct planning for the area envisions a desired scaled back development. Such a development would result in a significantly better outcome in contributing to an attractive development with good landscaped amenity, which contributes better to the character of the streetscape and neighbourhood, rather than a development which results in a bulk and mass that dominates and overshadows any periphery landscaping as proposed. • Further, the proposed development does not take advantage of the potential to retain some existing large trees on-site (particularly near adjoining boundaries) and incorporate them into the design so as to retain some local landscaped amenity which would otherwise be removed and unnecessarily replaced. <p><u>Conclusion:</u></p> <p>Although the proposal could theoretically comply with the minimal design requirements for landscaping across the site, the excessive nature and design of the development would contribute to undermining the intent of Principal 5, as stated above.</p>
<p>Principle 6:</p> <p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility</p>	<ul style="list-style-type: none"> • The proposal presents a design which can effectively meet the intent of Principle 6 for this type of development. However, the excessive nature of the development including density renders an assessment to any great extent secondary in consideration, as the scope and density of the development is not supported. • Council initially provided comment (as presented in Section 3.2 of this report) indicating to the applicant that elements of the unit designs needed to be addressed to meet the intent of this Principal, however, this matter has not been addressed. • The DEP provided comments indicating a deficiency in design suggesting; <ul style="list-style-type: none"> - <i>Greater emphasis should be given to make the development more pedestrian friendly.</i> <i>and</i> - <i>The provision of functional and meaningful</i>

	<p><i>communal and private outdoor space is essential to create a good community. Greater amounts of open space should be provided for the development, both public and private open spaces for residents.</i></p> <p><u>Conclusion:</u></p> <p>Although the proposal could be adjusted to meet the intent of Principle 6, it is considered that the excessive nature and design of the development and its inconsistency with the desired strategic vision for the locality renders any rigorous review of the design meaningless.</p>
<p>Principle 7:</p> <p>Safety</p> <p>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<ul style="list-style-type: none"> • The proposal could be designed to incorporate suitable definition of the public, communal and private domains, with secure basement parking, however it is noted that as all of the building blocks are to some extent landlocked along the eastern and western boundaries, that there are many units which would have no public domain interface, thus impacting on passive surveillance. • Another aspect of the proposed scheme which is not adequately addressed with the application is the possibility that adjoining land might not be developed for an indeterminate time. The Precinct Plan and DCP are required to consider development over time, not just in the ultimate scenario. Many proposed additional residences would effectively have private open space courtyards adjacent to existing large lot semi-rural private land on which are carried out a range of uses ongoing, and the locality might not be urbanised for a considerable period of time. The implications of this on the safety of residents with respect to a positive relationship between public and private spaces has not been contemplated. <p><u>Conclusion:</u></p> <p>Although the proposal could be adjusted to meet the intent of Principle 7, it is considered that the excessive nature and design of the development and its inconsistency with the desired strategic vision for the locality renders any rigorous review of the design meaningless.</p>
<p>Principle 8:</p> <p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad</p>	<ul style="list-style-type: none"> • The proposal does not provide an adequate mix of 3 bedroom apartments, providing only 3.95% of the apartment mix. • Affordable Housing is not proposed and Council generally requires that this be acknowledged and addressed in a Comprehensive Social Impact Assessment, taking into account the locality and social context of the development, and to ascertain whether the development could be improved through provision of better communal open space for better resident interaction. • Communal Open Space can be better designed and dispersed throughout the development rather than focused in a few limited parts of the

<p>range of people, providing opportunities for social interaction amongst residents.</p>	<p>development site.</p> <p><u>Conclusion:</u></p> <p>Irrespective of the key concern being that the development type and minimal dwelling diversity is causal to the unreasonably proposed density, the proposal is not supported in meeting the intent of Principle 8.</p>
<p>Principle 9:</p> <p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<ul style="list-style-type: none"> • As commented on by the DEP; <ul style="list-style-type: none"> - <i>Rendering of the proposal indicates that it has some aesthetic merit, however, the density of the scheme is excessive, well beyond the 25 – 30 dwellings/ha proposed the area. This is inconsistent with the strategic direction set for the area and unless there is strategic planning support for a change to the current direction, the Panel is not able to support or provide any meaningful review of the proposal.</i> • In response to this comment, Council has subsequently confirmed with the Department of Planning through which the Strategic Direction for Austral and Leppington North was devised and implemented, that there has not been a change to the Strategic Direction, and that the Precinct Plan for the locality has not lost its relevance, as initially established through the Growth Centres Development Code 2006, by the Growth Centres Commission. <p><u>Conclusion:</u></p> <p>In support of the DEPs comments, the assessment of the aesthetics of the development is meaningless, as it cannot be supported.</p>

Apartment Design Guide Compliance Table

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with ADG. The following table outlines compliance of the proposed development with the ADG.

Provisions	Comment
PART 1 IDENTIFYING THE CONTEXT	
1A Apartment Building Types	
<p>A range of apartment building designs are presented and a variety of concepts are provided with desired building types for specific development outcomes depending on orientation, location and local context.</p>	<p>Non-compliance</p> <p>The proposed development includes two Courtyard and two Row Apartment Buildings across the development site, which is inconsistent (due to the excessive scale of the development) with the context of the locality as it develops through time in accordance with the Growth Area Strategic Direction.</p>
1B Local Character and Context	
<p>Context is to be provided in relationship with the existing and desired future character and whether the proposal relates to a strategic or local centre, or is designed within the context of an urban or suburban neighbourhood.</p>	<p>Non-compliance</p> <p>The proposed development is inconsistent with the zone requirements and objectives and controls for the subject site, as it would not result in a medium density development, which is the desired future character of the locality. Further, the development is not designed in context of the existing</p>

	neighbourhood, and is not within close vicinity of a strategic centre including transport and educational facilities.
1C Precincts and individual sites	
Individual sites especially if amalgamated should be considered in terms of desired future character of the neighbourhood and street scales, and should not restrict adjoining sites by way of causing isolation. If the site is subject to a precinct plan it must consider all relevant elements of the strategic outcome expectations.	Non-compliance The site is subject to a very clear precinct plan which sets the strategic direction for the scale and size of development in providing a target population to be delivered over time. Were the proposed development approved, it would impact the administering of the Precinct Plan by jeopardising the achieving of the strategic outcome expectations. Part of the locality is currently in transition from semi-rural land on large lots, to low and medium density residential development. High density zones do not exist in the precinct. Further, the proposed development does not address the isolation issues caused by the proposal on the adjoining western site, which were this proposal to be approved, would not be able to reasonably respond and develop in a manner consistent with the desired characteristics of the R3 zoned land in the Growth Centres.
PART 2 DEVELOPING THE CONTROLS	
2A Primary Controls	
Sets out the objectives of the provisions and in the developing of the controls in assessing apartment buildings.	Non-compliance The proposed development is considered to be an overdevelopment, which exceeds the expected height, bulk and scale by not complying with the primary controls, as well as not complying with minimum required landscaping / deep soil and communal open space controls.
2B Building Envelopes	
Sets out the appropriate scale of future development in terms of bulk and height relative to streetscape, public and private open space, and block and lot size. They help to define the three dimensional form of buildings and inform decisions about density, open space and future mass and scale of new development.	Non-compliance The building envelope proposes unreasonable height variations and the density is excessive when considering the context of the development within the locality and with respect to adjoining sites and the desired streetscape.
2C Building Height	
Helps shape the desired future character and defines the relationship between buildings and public and private spaces in terms of physical and visual amenity. It informs the maximum number of storeys especially for residential development.	Non-compliance The design of the buildings exceeds the maximum sought number of storeys and exceeds the maximum allowed height by 1.1m. As the site is on undeveloped greenfield land and as it is not flood affected, it is considered there to be no site constraints too onerous to warrant any variation. The applicant proposes a development which would result in an undesirable development in the context of the desired future character of the locality.
2D Floor Space Ratio	
Helps ensure that optimum capacity and desired density for the site and local area is achieved. It also provides opportunities for building articulation within a building envelope.	N/A No FSR applies to the site.
2E Building Depth	

Sets out the appropriate building depth and how it relates to the maximum apartment depths, helping to ensure that natural ventilation and access to sunlight.	Non-compliance The proposed building depths result in an overall deficiency in requirements for solar access.
2F Building Separation	
Sets out minimum setbacks between buildings relative to height, communal open space, visual privacy and acoustic privacy controls.	Complies The proposed development is considered to generally be compliant with the primary controls and conditions of consent mitigate side separation variations as discussed further in the report.
2G Street setbacks	
Sets out the objectives of the front setback in ensuring a coherent threshold between the public and private realms and to promote appropriate entry points and establishing landscaped areas and a passive surveillance and outlook to the street.	Complies The building front setback complies.
2H Side and rear setbacks	
Sets out setbacks to boundaries relative to the height of buildings in helping to achieve amenity for development and buildings on adjacent sites, and also providing for open space areas and separation between buildings.	Complies The proposed development is considered to generally be compliant with the primary controls and conditions of consent mitigate side separation variations as discussed below this table. Otherwise the rear setback fully complies.
PART 3 SITING THE DEVELOPMENT	
3A Site Analysis	
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	Non-compliance The proposed development is not appropriate for its context, and would be the first development of its kind and density to be approved in the immediate locality, and would be undesirable in setting the tone for future development, which is to be consistent with the strategic direction of the Precinct Plan.
3B Orientation	
3B-1. Building types and layouts respond to the streetscape and site while optimising solar access within the development	Non-compliance The building layout is not well designed given the opportunities the size and orientation of the site affords a development, and it is considered the development does not maximise orientation of units to the northern aspect. Overshadowing of neighbouring properties and future medium density development (to a maximum of 3 storeys and predominately 1 and 2 storeys) is considered excessive, especially as the proposal is not consistent with the maximum desired 3 storeys in the locality, and as it does not comply with overall maximum allowable height.
3B-2. Overshadowing of neighbouring properties is minimised during mid-winter	
3C Public Domain Interface	
3C-1 Transition between private and public domain is achieved without compromising safety and security	Complies A reasonable transition between the private and public domain is achieved through low height fencing while living area balconies are orientated towards the public domain to ensure a safe and secure transition between the private and public domain.
3C-2 Amenity of the public domain is retained and enhanced	
3D Communal and public open space	
3D-1. An adequate area of communal open space is provided to enhance residential	Non-compliance The proposal incorporates an area of communal

<p>amenity and to provide opportunities for landscaping</p> <p>1. Communal open space has a minimum area equal to 25% of the site</p> <p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>open space, equivalent to the following calculations attributable to Lots 1 & 2 respectively.</p> <p>Lot 1 (Blocks C & D) = 8.51% (474sqm / 5569sqm) Lot 2 (Blocks A & B) =12.61% (916sqm / 7261.5sqm)</p> <p>The application incorrectly calculates a compliance with the control, due to an incorrect assumption that all communally trafficable space on the ground floor (including when associated with planters boxes and footpaths to the main entry foyers / lift lobbies) is Communal Open Space.</p>
<p>3D-2. Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p>	<p>It is considered that given the size of the development site, that the Communal Open Space element of the design has not been well incorporated given the number of apartments and residents it is required to service.</p>
<p>3D-3. Communal open space is designed to maximise safety</p>	<p>Further, the limited amount of area provided for Communal Open Space accommodates a larger than reasonably expected building footprint and is considered a direct cause to the unreasonable bulk, scale and density of the development.</p>
<p>3D-4. Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p>	<p>The proposed areas of communal open space are accessible and visible from habitable rooms and private open space areas.</p> <p>Public open space is not included as part of the proposed development.</p>
3E Deep soil zones	
<p>Site Area > 1500m² Min. Dimensions 6m Deep soil zone (% of site area) - 15% in consideration of the site areas and context</p>	<p>Non-compliance</p> <p>The proposal incorporates an area of deep soil, equivalent to the following calculations attributable to Lots 1 & 2 respectively.</p> <p>Lot 1 (Blocks C & D) = 2.42% (135sqm / 5569sqm) Lot 2 (Blocks A & B) =2.14% (156sqm / 7261.5sqm)</p> <p>The application incorrectly calculates a compliance with the control by using the minimum dimension of 3m, and in not applying the minimum dimension of 6 metres for site areas larger than 1500sqm.</p> <p>The applicant also incorrect calculates terraces and trafficable footpaths / roofed areas within communal open space as being deep soil areas.</p> <p>The size and extent of the basement car-park is primarily causal in there being so few deep soil areas of minimum 6m dimension.</p> <p>Further, the limited amount of area provided for deep soil to plant large trees and provide some water infiltration, accommodates a larger than reasonably expected building footprint and is considered a direct cause to the unreasonable bulk, scale and density of the development.</p>
3F Visual Privacy	

<p>Requirement:</p> <table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non Habitable Rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 Storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 Storeys)</td> <td>9m</td> <td>4.5m</td> </tr> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 Storeys)	6m	3m	Up to 25m (5-8 Storeys)	9m	4.5m	<p>Complies</p> <p><u>Provided:</u></p> <table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non Habitable Rooms</th> </tr> </thead> <tbody> <tr> <td>Ground Floor</td> <td>6m</td> <td>6m</td> </tr> <tr> <td>Level 1</td> <td>6m</td> <td>6m</td> </tr> <tr> <td>Level 2</td> <td>6m</td> <td>6m</td> </tr> <tr> <td>Level 3</td> <td>6m</td> <td>6m</td> </tr> <tr> <td>Level 4</td> <td>6m</td> <td>6m</td> </tr> </tbody> </table> <p>At their closest points, the setbacks of the buildings generally comply in achieving the intent of the controls for maintaining visual privacy.</p>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Ground Floor	6m	6m	Level 1	6m	6m	Level 2	6m	6m	Level 3	6m	6m	Level 4	6m	6m
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Level 4	6m	6m																										

3G Pedestrian access and entries

3G-1. Building entries and pedestrian access connects to and addresses the public domain	<p>Non-compliance</p> <p>Building access areas and pathways are clearly visible from the public domain, however, the entrance to the residential foyers for Block A and B are not easily identifiable and distinguishable, and are set approximately 30m from the pedestrian access point to the development, and are situated behind and amongst the centrally located Communal Open Space.</p> <p>Otherwise entries and pathways from the front of the building and to the communal open areas are accessible.</p>
3G-2. Access, entries and pathways are accessible and easy to identify	
3G-3. Large sites provide pedestrian links for access to streets and connection to destinations	

3H Vehicle Access

Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	<p>Non-compliance</p> <p>The proposal provides vehicle access via Scion and Silo Streets which is considered acceptable, the basement car park access from Block A and B adjoins communal open space and does not meet the guideline of 'separate and distinguishable' access.</p>
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3J Bicycle and Car Parking

3J-1. Minimum car parking requirement for residents and visitors to comply with Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.	<p>Complies</p> <p>Car parking has been provided as per the requirements.</p> <p>Dedicated undercover bike storage is provided in the basement.</p> <p>Access to the car parking within the basement level could be required to swipe card access with the installation of motion sensor lights were the development supportable.</p> <p>The vehicle access point has been integrated into the building design and the underground car park is not readily visible from the public domain.</p> <p>No on-grade car parking is proposed.</p>
3J-2. Parking and facilities are provided for other modes of transport	
3J-3. Car park design and access is safe and secure	
3J-4. Visual and environmental impacts of underground car parking are minimised	
3J-5. Visual and environmental impacts of on-grade car parking are minimised	
3J-6. Visual and environmental impacts of above ground enclosed car parking are minimised	

PART 4 DESIGNING THE BUILDING

4A Solar and Daylight Access					
<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>2. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>Non-compliance A total of 71.15% (180 of 253) apartments achieve a minimum of two hour solar access.</p> <p>A maximum of 18.18% (46 of 253) apartments receive no solar access on June 21 between 9am and 3pm.</p> <p>As previously assessed, the proposed development is not oriented to allow units to take advantage of the northern aspect. Further, serious concern is raised regarding the provision of solar access dependent upon skylights on Level 3.</p>				
<p>4A-2 Daylight access is maximised where sunlight is limited</p>	<p>Non-compliance The site does not provide appropriate solar access to apartments given the orientation and advantages of designing to develop on a large greenfield site.</p> <p>The BASIX Certificate for the proposed development identifies that it achieves the required thermal comfort levels, however, the lack of appropriate deep soil landscaping and open space may mean this is achieved through costly use of air-conditioners rather than due to an appropriate design, especially as the minimum number of apartments meets the provisions for natural ventilation.</p>				
<p>Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months</p>					
4B Natural Ventilation					
<p>4B-1 All habitable rooms are naturally ventilated to create healthy indoor living environments.</p> <p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Complies</p> <p>The site analysis contained within the architectural plans illustrates that prevailing winds originate from the south east/west.</p> <p>A total of 60.08% (152 of 253) apartments achieve natural cross ventilation.</p> <p>However concern is raised regarding 12 cross-through units in Block C and D which exceed a depth of 16m, when measured glass line to glass line.</p>				
<p>4B-2 The layout and design of single aspect apartments maximises natural ventilation</p>					
<p>4B-3 The number of apartments with natural cross ventilation is maximised</p>					
4C Ceiling Heights					
<p>4C-1 Ceiling height achieves sufficient natural ventilation and daylight access. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Minimum ceiling height for apartment and mixed use buildings</p> <table> <tr> <td>Habitable Rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-Habitable</td> <td>2.4m</td> </tr> </table> <p>If located in mixed use areas 3.3m for ground and first floor</p>	Habitable Rooms	2.7m	Non-Habitable	2.4m	<p>Complies All floors achieve a minimum floor-to-ceiling height of 2.7m.</p>
Habitable Rooms	2.7m				
Non-Habitable	2.4m				

<p>4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p>	<p>Complies All residential apartments have a minimum ceiling height of 2.7m in habitable rooms and apartment layouts have been designed to provide spacious, well-proportioned rooms.</p>
<p>4C-3 Ceiling heights contribute to the flexibility of use over the life of the building building</p>	<p>Complies The floor to ceiling heights at ground floor and above is consistent with the residential use. Given the number of residential apartments on each level, following theoretical strata subdivision it is unlikely that these would be converted to commercial uses in future, as the site is zoned for residential purpose.</p>
<p>4D Apartment Size and Layout</p>	
<p>4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</p> <p>1. Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio 35m² • 1 bedroom 50m² • 2 bedroom 70m² • 3 bedroom 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>Non-compliance</p> <p>All units meet the required minimum areas</p> <p>Not all habitable rooms have a window to an external wall with a total minimum glass area greater than 10% of the floor area of the room, as two ground level units in Blocks A and B rely on an internal window from a study room to the lift lobby.</p>
<p>4D-2 Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Complies</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height. Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m. The scheme complies with this requirement, noting that the proposal primarily incorporates open plan layouts.</p> <p>2. No open plan layout has a habitable room depth more than 8m from a window.</p>
<p>4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining</p>	<p>Complies</p> <p>All master bedrooms and other bedrooms achieve the required areas.</p> <p>All bedrooms achieve the minimum dimension</p> <p>All apartments achieve the minimum dimension</p>

<p>rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>requirements to living/dining rooms.</p> <p>Cross through apartments are 4.5m in width.</p>															
4E Private Open Space and Balconies																
<p>4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p>1. All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="177 555 746 750"> <thead> <tr> <th>Dwelling type</th> <th>Minimum Area</th> <th>Min. Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td></td> </tr> <tr> <td>1 bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	Dwelling type	Minimum Area	Min. Depth	Studio	4m ²		1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>Non-compliance</p> <p>All apartments comply except for 5 x 2 bedroom units which provide 9sqm balconies where 10sqm is required, and 2 x Ground Level units which do not meet the minimum 15sqm.</p> <p>Given the scale and size of the development, there is no justifiable reason that all private open spaces to every unit should not comply with the minimum required.</p> <p>Further, concern is raised that many Ground Floor units do not provide a minimum 3m depth for their private open space.</p>
Dwelling type	Minimum Area	Min. Depth														
Studio	4m ²															
1 bedroom	8m ²	2m														
2 bedroom	10m ²	2m														
3+ bedroom	12m ²	2.4m														
<p>4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents</p>	<p>Complies</p> <p>Private open space is directly accessible from the living area of each dwelling and can be used in conjunction with these.</p>															
<p>4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p>	<p>The balconies are integrated into the overall design of the development and form part of the detail of the building.</p>															
<p>4E-4 Private open space and balcony design maximises safety</p>	<p>All balconies would be conditioned to comprise balustrades of 1.4m in height to ensure safety is maintained.</p>															
4F Common circulation and spaces																
<p>4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>1. The maximum number of apartments off a circulation core on a single level is eight.</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Non-compliance – reason for refusal</p> <p>Two areas are proposed on each level of each building comprising a lift lobby.</p> <p>Maximum number of units serviced by one lift circulation core exceeds the maximum of 8 as follows;</p> <p>Blocks A and B Ground Floor = 9 Levels 1 & 2 = 9 & 10 Level 3 = 9</p> <p>Given the scale and size of the development, there is no justifiable reason that the circulation cores should not be limited to servicing a maximum of 8 units.</p>															
<p>4F-2 Common circulation spaces promote safety and provide for social interaction between residents</p>	<p>Non-compliance</p> <p>The proposal incorporates common foyers only for Blocks A and B.</p> <p>Blocks C and D do not have a common foyer and the</p>															

	elevator shafts are located directly opposite entry doors to 2 units on the ground floor.										
4G Storage											
<p>4G-1 Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="0"> <thead> <tr> <th>Dwelling Type</th> <th>Storage volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m3</td> </tr> <tr> <td>1 bedroom</td> <td>6m3</td> </tr> <tr> <td>2 bedroom</td> <td>8m3</td> </tr> <tr> <td>3+ bedroom</td> <td>10m3</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling Type	Storage volume	Studio	4m3	1 bedroom	6m3	2 bedroom	8m3	3+ bedroom	10m3	<p>Complies</p> <p>The proposal provides for storage within each apartment to comply with the minimum volume specified in the ADG.</p>
Dwelling Type	Storage volume										
Studio	4m3										
1 bedroom	6m3										
2 bedroom	8m3										
3+ bedroom	10m3										
<p>4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments</p>	<p>Complies</p> <p>Storage is provided within each apartment and within the basement which is accessed via the lift.</p>										
4H Acoustic Privacy											
<p>4H-1 Noise transfer is minimised through the siting of buildings and building layout</p>	<p>Complies</p> <p>Noise transfer between units and within units has been minimised through an appropriate building layout locating bedrooms mostly away from balconies and living areas.</p>										
<p>4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments</p>	<p>The apartments have been configured so that quiet spaces (e.g. bedrooms) are co-located. An acoustic report has been provided to demonstrate the proposed apartments will not be adversely affected by external or internal noise subject to recommendations</p>										
4J Noise Pollution											
<p>4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p>	<p>Complies</p> <p>An acoustic report has been provided to demonstrate the proposed apartments will not be adversely affected by external or internal noise subject to recommendations.</p>										
<p>4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>											
4K Apartment Mix											
<p>4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future.</p>	<p>Non-compliance</p> <p>The development provides the following unit mix:</p> <ul style="list-style-type: none"> • One bedroom: 18.58% (47). • Two bedroom: 77.47% (196). • Three Bedroom: 3.95% (10). <p>Given the number of units in the development (253), it is considered there is not an appropriate mix to meet the intent of the control, as required by Principle 8: Housing Diversity and Social Interactivity.</p>										
<p>4K-2 The apartment mix is distributed to suitable locations within the building.</p>											
4L Ground Floor Apartments											
<p>4L-1 Street frontage activity is maximised where ground floor apartments are located</p>	<p>Complies</p> <p>The ground floor apartments which face the road reserves provide opportunities for passive surveillance while achieving privacy to the residents</p>										
<p>4L-2 Design of ground floor apartments delivers amenity and safety for residents</p>											

	by way of landscaping and low-level fencing.
4M Facades	
4M-1 Building facades provide visual interest along the street while respecting the character of the local area	Complies Building façades are articulated and modulated through the use of balconies, varying windows, awnings and recessed elements. Ground floor building entries and uses are clearly defined and articulated by the façade.
4M-2 Building functions are expressed by the facade	
4N Roof Design	
4N-1 Roof treatments are integrated into the building design and positively respond to the street	Non-compliance The roof design contributes to the excessive height of the development. No roof space is proposed to be set aside for open space. The proposal complies with requirements of BASIX and will include the required thermal insulation techniques.
4N-2 Opportunities to use roof space for residential accommodation and open space are maximised.	
4N-3 Roof design incorporates sustainability features	
4O Landscape Design	
4O-1 Landscape design is viable and sustainable	Complies The landscape plan incorporates sustainable environmental design and landscaping to the site. The landscape design maximises the use of drought tolerant species.
4P Planting on Structures	
4P-1 Appropriate soil profiles are provided	Complies As demonstrated in the Landscape Plan the species selected are appropriate for the soil depths and volumes.
4P-2 Plant growth is optimised with appropriate selection and maintenance	
4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces	
4R Adaptive Reuse	
4R-1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The development does not propose new additions or adaptations to an existing building.
4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable
4S-2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4Q Universal Design	
4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members	Complies A total of 38 apartments, which equates to 15%, are capable of adaptation.
4Q-2 A variety of apartments with adaptable designs are provided	

4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs	
4U Energy Efficiency	
4U-1 Development incorporates passive environmental design	Complies The BASIX Certificate provided with the application identifies that the proposed development achieves the required levels of thermal comfort for a development of this scale. The proposed development satisfies the natural ventilation design criteria
4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
4U-3 Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
4V-1 Potable water use is minimised	Non-compliance Potable water use will be minimised where possible. The BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements. However, insufficient detail has been provided with respect to how storm-water will be treated on site, prior to being discharged into Council's stormwater system, and the proposed hydraulic designs are inappropriate as assessed by Council's engineers.
4V-2 Urban stormwater is treated on site before being discharged to receiving waters	
4V-3 Flood management systems are integrated into site design	
4W Waste Management	
4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	Complies The residential waste facilities are incorporated into the design of development and are not readily visible from the public domain. Separate residential waste rooms are provided in Basement and on the ground floor.
4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling	
4X Building Maintenance	
4X-1 Building design detail provides protection from weathering	Complies Building has been designed to be detailed in a manner to provide protection from weathering. Systems and access enable ease of maintenance. All plant equipment is accessible, being located on the Ground Floor or in the Basement. Finishes selected on the basis of reducing maintenance costs.

(c) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Consideration was given to this issue by Council's Environmental Health Officer with respect to the submitted *Preliminary Site Investigation Report by Martens Consulting Engineers dated July 2017*. It is noted that the Report recommends that a detailed site investigation, including intrusive soil sampling and testing, be undertaken to confirm the extent of contamination on-site. This report was accompanied by a cover letter by Martens Consulting Engineers requesting that this testing and any possible subsequent remediation of the site be done after the issue of any consent.

Council's Environmental Health Officer requested that the Detailed Investigation, and any subsequent required Remediation Action Plan, be undertaken and submitted to Council, for assessment. Given the substantial scope of works and the proposed change in use from semi-rural activities to residential, Council cannot be satisfied in accordance with Clause 7 of the SEPP that the land is suitable or will be made suitable for the proposed development.

The applicant did not provide any further contamination details to enable assessment and as such, rendered any possible approval of the development unattainable.

(d) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the Plan.

(e) State Environmental Planning Policy (Infrastructure) 2007

Classified Road

The proposed development constitutes a proposal specified within **Column 3** of Schedule 3 (Traffic Generating Developments) of State Environmental Planning Policy (Infrastructure) 2007 as the development site is on a classified road, being Bringelly Road. In accordance with Clause 104 of SEPP (Infrastructure) 2007, the application was referred to the Roads and Maritime Services for comment/concurrence.

RMS advised by letter dated 9 January 2018 that they have no objections to the proposal subject to conditions of consent, as detailed later in the report.

Access and Egress

Clause 101 of the SEPP (Infrastructure) 2007 requires that the consent authority not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposed development is considered to satisfy the above criteria based on the proposal's consistency with the Indicative Layout Plan (ILP), which requires there to be no direct access envisioned from the access road known as Silo Street to the adjacent Bringelly Road reserve, and that access to the site is achieved via local (non-classified) roads, only.

Noise and vibration

Clause 102 of the SEPP deals with noise and vibration. Clause 102 requires that a development application is not determined for a residential use adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles, unless the consent authority is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building - 35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.

The applicant submitted an acoustic report to address the above requirements. The report indicates that the proposed development can achieve compliance with the above LAeq levels, subject to recommendations of the report. Council is satisfied that recommendations provided in the report could be incorporated into any approved design via a condition of consent.

(f) Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP)

The subject land is located within the Hawkesbury Catchment and as such the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) applies to the application.

The Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) generally aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

When a consent authority determines a development application, planning principles are to be applied (Clause 4). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 5 and Clause 6), and compliance with such is provided below.

Clause 5 General Principles	Comment
(a) the aims of this plan,	The plan aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.
(b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy	The strategies are applied to this planning assessment in the table under Clause 6.

<p>(c) whether there are any feasible alternatives to the development or other proposal concerned</p>	<p>Yes. Although the site is located in an area nominated for residential development, the proposed development has not demonstrated that it will not result in an unreasonable impact on downstream creek and river systems and other land adjoining the creek system. The proposed large scope of works and significant areas of hard-stand and impervious surfaces are likely to result in an increased stormwater runoff impact, and the details to confirm otherwise have not been provided.</p> <p>An alternative proposed design with less hard surface which includes ground-water infiltration, is considered a better response to managing site overland flow impact on downstream environments.</p>
<p>(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored</p>	<p>Council's development engineers and floodplain engineers reviewed the originally submitted details and requested additional information to enable assessment on how the development's impact on the environment could be addressed and monitored. The applicant has not provided any additional detail as requested to ensure the development can meet this principle. Further, the application requires the use of adjoining land on which to place temporary drainage infrastructure for which there is no adjoining owner's consent. As such, the effect of the likely impact of the development is known in that it depends on development of land for which it cannot obtain, as the adjoining owner does not wish to be burdened by it.</p>
<p>Clause 6 Specific Planning Policies and Recommended Strategies</p>	<p>Comment</p>
<p>(1) Total catchment management</p>	<p>Environmental Planning consideration through SEPP (Sydney Region Growth Centre) 2006 has considered the impact of the residentially zoned land within the catchment</p>
<p>(2) Environmentally sensitive areas</p>	<p>The development area is not part of an Environmentally Sensitive area as defined in this plan.</p>
<p>(3) Water quality</p>	<p>Council's development engineers and floodplain engineers reviewed the originally submitted details and requested additional information to enable assessment on how the proposed development would be able to ensure the expected quality of stormwater discharge from the site.</p> <p>This information has not been forthcoming.</p>

(4) Water quantity	Council's development engineers and floodplain engineers reviewed the originally submitted details and requested additional information to enable assessment on how the proposed development would be able to reduce the impact from the expected storm-water runoff and flow characteristics through the site, on down-stream aquatic ecosystems. This information has not been forthcoming.
(5) Cultural heritage	The site is not identified as being of or containing Aboriginal / cultural heritage.
(6) Flora and fauna	The site is identified as certified land and otherwise not containing threatened species of flora and fauna.
(7) Riverine scenic quality	Not applicable.
(8) Agriculture/aquaculture and fishing	Not applicable.
(9) Rural residential development	Not applicable.
(10) Urban development	The site has been rezoned to residential, however, the proposal is considered excessive and an over-development when considering the expected typology of development as provided by the strategy in the Precinct Plan. Further, Council's development engineers and floodplain engineers reviewed the originally submitted details and requested additional information to ensure the development could be designed in such a way to manage erosion and sediment loss, and to improve the expected quality of stormwater discharge from the site, during and after development. This information has not been forthcoming.
(11) Recreation and tourism	Not applicable.
(12) Metropolitan strategy	The proposal is inconsistent with the Metropolitan Strategy by proposing an excessive residential density for a greenfield development in the South West Growth Centre, which has been created with specific dwelling yield and population maximum targets as the basis of its orderly and coherent development and future function.

It is considered that due to a lack of information the proposal cannot demonstrate that it satisfies the provisions of the SREP No.20 and cannot be supported.

6.2 Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

There are currently no draft planning instruments that would be applicable to the proposal.

6.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

(a) Liverpool City Council Growth Centre Precincts Development Control Plan

The application has been considered against the controls contained in the Liverpool Growth Centre Precincts Development Control Plan (Growth Centres DCP) in particular:

- Part 2: Precinct Planning Outcomes; and
- Part 3: Neighbourhood and Subdivision Design, and
- Part 4: Development in Residential Zones.

The assessment has identified that the proposal generally demonstrates that the proposed development does not achieve compliance with relevant DCP requirements. The key controls are discussed in the following tables:

Part 2 Precinct Planning Outcomes		
Development Control	Provision	Comment
2.2 The Indicative Layout Plan	All development applications are to be generally in accordance with the Indicative Layout Plan.	Complies The proposed road construction is aligned with the road network identified in the ILP.
	When assessing development applications, Council will consider the extent to which the proposed development is consistent with the Indicative Layout Plan.	
	Any proposed variations to the general arrangement of the Indicative Layout Plan must be demonstrated by the applicant, to Council's satisfaction, to be consistent with the Precinct Planning vision in the relevant Precinct Schedule.	
2.3.1 Flooding	This section controls relating to development on flood prone land	Non-compliance As presented in Section 3.2 of this report, Council's Flooding Engineering Branch requested the details to ensure compliance with this section of the DCP, as the originally submitted detail was insufficient to enable approval. This has not been forthcoming.
2.3.2 Water Cycle Management	This section contains controls relating to stormwater management.	Non-compliance As presented in Section 3.2 of this report, Council's Development Engineering Branch requested the details to ensure compliance with this section of the DCP, as the originally submitted detail was insufficient to enable approval. This has not been forthcoming.
2.3.3 Salinity and Soil Management	This section contains controls relating to salinity and soil management.	Complies by condition The site is potentially affected by a moderate level of salinity. A submitted Salinity Assessment indicates that construction management techniques are required. Council's Land Development Engineers have

Part 2 Precinct Planning Outcomes		
Development Control	Provision	Comment
		reviewed this part of the proposed development and raised no issues subject to conditions.
2.3.4 Aboriginal and European Heritage	This section contains controls relating to the management of Aboriginal heritage values and to ensure areas identified as European cultural heritage sites or archaeological sites are managed.	Complies by Condition The submitted assessment has considered the potential for Aboriginal heritage at the site and concluded that it unlikely that the site contains any significant heritage. Due to the scope of works required for the subdivision, it is considered pertinent that conditions of consent apply to this DA to provide direction around the unlikely event any remains or artefacts are uncovered during works.
2.3.5 Native Vegetation and Ecology	This section contains controls relating to the conservation and rehabilitation of native vegetation.	Non-compliance Opportunity exists for the retention of some of the existing vegetation and for the development to respond to the existing trees. The submitted arborist report does not satisfactorily address this part of the DCP and suggests that further ecological reporting should be given to ensure no fauna habitat is removed unnecessarily from the site. It also suggests that 3 trees on an adjoining site would be unlikely to withstand the impact of the development.
2.3.6 Bushfire Hazard Management	This section contains controls relating to development on bushfire prone land.	Not Applicable Not identified as containing Bushfire Risk
2.3.7 Site Contamination	This section contains controls relating to development on potentially contaminated land.	Non-compliance Council requires that a Detailed Investigation and possibly a Remediation Action Plan be submitted to satisfy the requirements of this Section in the DCP.
2.3.8 Development on and adjacent to electricity and gas easements	This section contains controls relating to development on and adjacent to electricity and gas easements.	Not Applicable Not identified as being land adjacent to electricity and gas easements.
2.3.9 Noise	This section contains controls relating to ensuring acoustic privacy is achieved for future residential development.	Complies by Condition An acoustic report has been submitted to Council which recommends measures to mitigate noise impact from the classified Bringelly Road. A condition can be imposed on any consent granted to ensure these recommendations are followed.
2.3.10 Odour Assessment and Control	This section relates to land deemed by Council to be affected by an odour source.	Complies There are no odour emitting sources in the immediate locality, as identified on the DPE mapping.
2.3.11 Air Quality	This section contains controls relating to preserving air quality in relation to industrial and/or employment development	Not Applicable The DA does not propose industrial or employment development.
2.4 Demolition	This section contains controls relating to demolition of buildings	Complies by condition The demolition of the dwellings is to be

Part 2 Precinct Planning Outcomes		
Development Control	Provision	Comment
		undertaken as required by conditions of consent.
2.5 CPTED	This section contains controls relating to the principles of CPTED.	Complies The proposed development is unlikely to contravene the principles of CPTED, and this part of the DCP would defer to the ADG requirements.
2.6 Earthworks & Dam De-watering	This section contains controls relating to earthworks	Complies by condition This aspect has been reviewed by Council's Land Development Engineers, who have raised no issues to the bulk earthworks, subject to conditions. Further, there is no dam removal required as part of this DA.

Part 3 Neighbourhood and Subdivision Design		
Development Control	Provision	Comment
3.1.1 Residential Density	All applications for residential subdivision and the construction of residential buildings are to demonstrate that the proposal meets the minimum residential density requirements of the relevant Precinct Plan and contributes to meeting the overall dwelling target in the relevant Precinct.	Non-compliance The DA proposes 253 dwellings over 1.7414ha resulting in a density of 145.28dw/ha in a locality targeted to deliver 25-30dw/ha. The proposal cannot meet the control requiring development to contribute to meeting the overall dwelling target as it contributes excessively to that target.
	Residential development is to be generally consistent with the residential structure as set out in the Residential Structure Figure in the relevant Precinct Schedule, the typical characteristics of the corresponding Density Band in Table 3-1.	Non-compliance Development in the 25-30dw/ha band is expected to be predominantly small lot housing with some, multi-dwelling housing, manor homes, and residential flat buildings located close to the local centre and public transport. Also, the buildings are generally to be single and double storey with some three storey. The proposal does not comply as only four residential flat buildings are proposed which are also not located close to any local centre.
3.1.2 Block and Lot Layout	Minimum lot size of 2000m ² with a	Complies No lots have an area less than 2000m ²
	Two or more RFB sites not to be amalgamated after principle subdivision to create the larger lot to meet the minimum lot size	Complies Not proposed
3.1.3 Battle-axe Lots	Provides controls for Battle-axe lots	Not Applicable (none proposed)
3.1.4 Corner Lots	Corner lots, including splays and driveway location, are to be designed in accordance with AS 2890 and Council's Engineering Specifications.	Complies by condition This aspect has been reviewed by Council's Land Development Engineers who have raised no objections
	Corner lots are to be designed to allow dwellings to positively	Complies

Part 3 Neighbourhood and Subdivision Design		
Development Control	Provision	Comment
	address both street frontages.	
	Plans of subdivision are to show the location of proposed or existing substations, kiosks, sewer man holes and/or vents affecting corner lots.	Non-compliance Council's Land Development and Floodplain Engineers have requested additional detail which may require significant amendments to the location of infrastructure shown on the Engineering plans. This information has not been forthcoming.
3.1.5 Subdivision in the Environmental Living Zone	Provides controls for subdivision in E4 zones.	Not Applicable
3.2 Subdivision Approval Process	The land subdivision approval process is to be consistent with the requirements of Table 3-4.	Complies The DA complies with Pathway B1.
	Building Envelope Plans (BEPs) to provide appropriate details as listed in the DCP.	Not Applicable None required as no lots less than 300m ² .
	Public Domain Plan to show elements of the Public Domain including Street Trees, vehicular cross-overs, and indicative building footprints.	Non-compliance Council's Land Development and Floodplain Engineers have requested additional detail which may require significant amendments to the location of infrastructure shown on the Engineering plans. This information has not been forthcoming.
3.3.1 Street Network Layout and Design	This section contains controls relating to street network layout and design, including requirements for street trees.	Non-compliance Council's Traffic Engineers have requested additional detail which may require significant amendments to the design and location of traffic measures in the road reserve, in conjunction with additional cumulative impact study of the road network due to the excessive density proposed. This information has not been forthcoming.
3.3.2 Laneways	Provides controls for laneways	Not Applicable None proposed
3.3.4 Shared Driveways	Provides controls for shared driveways	Not Applicable None proposed
3.3.5 Pedestrian and Cycle Network	This section contains controls relating to the implementation of pedestrian and cycle networks.	Not Applicable The ILP indicates no shared footpath/cycle-way requiring development as part of road construction.
3.3.6 Temporary Vehicular Access	Provides controls for Temporary Vehicular Access	Not Applicable None proposed as access via the existing street network can be provided to the site.

Part 3 Neighbourhood and Subdivision Design		
Development Control	Provision	Comment
3.4 Construction Environmental Management	This section contains controls relating to the implementation of a construction environmental management plan.	Complies by condition Conditions of consent would be imposed ensuring the implementation of a construction environmental management plan, prior to issue of a CC.

Part 4 Development in Residential Zones		
Development Control	Provision	Comment
4.3.5 Controls for Residential Flat Buildings	Minimum Street frontage = 30m	Complies The RFBs have a minimum street frontage of 30m
	Direct frontage per building to a public domain	Complies Each building has a direct frontage to the public domain
	Not adversely impact upon the existing or future amenity of any adjoining land upon which residential development is permitted with respect to overshadowing impact, privacy impact or visual impact.	Non-compliance The exceedance in maximum height would result in an additional overshadowing and visual impact on adjoining land than would a complying development.
	All residential flat buildings are to be consistent with <ul style="list-style-type: none"> - the guidelines and principles outlined in SEPP No.65 - primary controls set out in Table 4-10 shown below this table, which take precedence over SEPP No.65 where there is any inconsistency 	Non-compliance The RFB does not comply with SEPP No.65 and does not comply in full with the provisions and controls of Table 4-10 of this DCP.
	Where more than 10 dwellings are proposed, at least 10% are to be adaptable / accessible	Complies 15% are adaptable / accessible
	Where possible, adaptable / accessible dwellings are to be located on the Ground Floor	Complies on merit Not all are located on the Ground Floor, however there are 10 units on the Ground Floor, and otherwise all other units and basement level carpark are accessible with lifts.
	The DA must be certified by an accredited Access Consultant	Complies The DA is supported by an Access consultant report which is recommended for approval by Council's Building Surveyor Section.
	Accessible Car-Spaces must comply with Australian Standards	Complies The DA is supported by an Access consultant report which is recommended for approval by Council's Building Surveyor Section.
	Landscape Plan is to be submitted	Complies Provided with expected relevant details
Car Parking Requirements <ul style="list-style-type: none"> - 1 space per dwelling plus 0.5 per 3 bedroom units <p>which is</p>	Complies <ul style="list-style-type: none"> - 258 resident car-spaces proposed - 51 visitor car-spaces proposed 	

Part 4 Development in Residential Zones		
Development Control	Provision	Comment
	<p>253 units plus 10 x 3 bedroom units = 253 + 5 = 258</p> <p>- 1 visitor space per 5 dwellings</p> <p>which is</p> <p>$253 / 5$ = 51</p> <p>- 1 bicycle space per 5 dwellings</p> <p>which is</p> <p>$253 / 3$ = 85</p>	<p>- 85 bicycle spaces proposed</p>

Part 4 Development in Residential Zones Table 4-10 Controls		
Development Control	Provision	Comment
Site Coverage Maximum	50%	<p>Non-compliance</p> <p>Lot 1 has 3955.38sqm of structure on 5569sqm = 71%</p> <p>Lot 2 has 4921.34sqm of structure on 7261.5sqm = 67.77%</p>
Landscaped Area Minimum	30% of site area	<p>Non-compliance</p> <p>Lot 1 does not comply = 29%</p> <p>Lot 2 complies = 32.23%</p>
Communal Open Space	15% of site area	<p>Refer to SEPP No.65</p> <p>Even so, Communal Open Space does not achieve 15% of site area.</p>
Principal Private Open Space	Minimum 10sqm per dwelling with minimum 2.5m dimension	<p>Non-compliance</p> <p>33 of the units have a balcony less than 10sqm in size</p>
Front Setback Minimum	6m with balcony encroachment to 4.5m for the first 3 storeys and for a maximum 50% façade length	<p>Complies</p> <p>Each RFB complies with the minimum setback requirements of 6m with allowable encroachments.</p>
Corner Lot Secondary frontage	6m	<p>Complies</p> <p>RFBs are setback 6m from the secondary</p>

Part 4 Development in Residential Zones Table 4-10 Controls		
Development Control	Provision	Comment
		frontages.
Side building setback	Buildings up to 3 storeys = 3m Buildings above 3 storeys = 6m	Complies Each RFB complies with the minimum side building setbacks
Rear Setback	6m	Complies Each RFB complies with the minimum rear setback of 6m.
Zero Lot	Not permitted	Not Applicable None proposed
Habitable room / balcony separation distance for buildings 3 storeys and above	12m	Complies Adequate building separation distances are provided between RFBs.

6.4 Section 4.15(1)(a)(iia) – Any Planning Agreement or Draft Planning Agreement

There is no planning agreement or draft planning agreement applying to the site.

6.5 Section 4.15(1)(a)(iv) –The Regulations

The Environmental Planning and Assessment Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia and requirements for demolition. Accordingly, appropriate conditions of consent would be imposed.

Additionally, it is considered that the submitted Design Verification Statement doesn't demonstrate how the design quality principles are achieved and does not demonstrate that the Apartment Design Guide objectives in Parts 3 and 4 are achieved. This is considered a reason for refusal.

6.6 Section 4.15(1)(b) – The Likely Impacts of the Development

(a) Natural Environment

The proposed removal of 173 trees and vegetation would result in a considerable and unnecessary loss of amenity from the locality, some of which could otherwise be retained and incorporated into the development design. Further, the design of the proposed stormwater works are insufficient in meeting the water management and quality requirements for the locality and would likely result in the disruption to ecological systems and existing natural water flows to potentially impact adjoining sites. There are also trees on an adjoining site which the arborist report suggests would not survive development to the extent proposed.

It is considered that the DA is not appropriate based on the information so far submitted, and given the likely impacts to the natural environment, the proposal is unsupportable.

(b) Built Environment

The proposed development is likely to create significant adverse impacts on the surrounding future built environment and is considered an overdevelopment due to excessive density, bulk and scale and height. It is considered an alternative design would result in reasonable impact while facilitating residential development consistent with the surrounding built form and the desired future built character of the locality.

Further, the proposal significantly impacts upon the potential built form development of the adjoining western site by isolating a part of that site within which development would be restricted. The development should propose an amalgamation of the sites to create appropriate block depths. Also, the development requires adjoining owner's consent for proposed downstream easements to manage drainage of the site which has not been provided. If this cannot be provided then the storm-water design is required to be revised which would likely result in significant changes to the proposed building and infrastructure.

(c) Social Impacts and Economic Impacts

The proposal is likely to generate detrimental social and economic impact in proposing an excessive residential density, and setting an undesirable precedent by placing an increased burden on infrastructure not planned for.

The design does not provide an appropriate mix of development required to cater for a range housing outcomes and does not provide any affordable housing. It also proposes deficient landscaped and communal open space areas in a locality which is deficient of land zoned for public recreation open space.

The likely impact of the development would place an undue strain on the existing and planned infrastructure (as provided for in the Growth Centres Contributions Plan), such that it would render the development of the precinct over time inefficient, and continually requiring infrastructure upgrade in response to excessive developments not planned for.

The development would immediately result in traffic congestion to the street network not appropriately addressed by the application, as development is expected to coherently develop around it in the locality.

6.7 Section 4.15(1)(c) – The Suitability of the Site for the Development

It is considered that the applicant has not sufficiently demonstrated that the proposal is suitable for the site. In correlation with the overdevelopment of the buildings and excessive density, the proposal does not demonstrate how the site is enhanced through the development or that the development in any way responds to the site constraints including existing native vegetation, overland flows, and site contamination.

6.8 Section 4.15(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

The following comments have been received from Internal Officers:

Department	Response
Building section	No objection subject to conditions
Engineering section	Application deferred subject to additional information.
Flooding section	Application deferred subject to additional information.
Traffic section	Application deferred subject to additional information.
Environmental Health Section	Application deferred – Additional contamination assessments requested
Strategic Planning	Not Supported - Raised significant issues with the application

The following comments have been received from External agencies:

Agency	Response
Sydney Water	No objection, subject to conditions of consent
Roads and Maritime Service	No objection, subject to conditions of consent

(c) Community Consultation

The development application was notified for a period of 14 days between 23 August 2017 and 7 September 2017 in accordance with LDCP 2008.

One (1) submission was received objecting to the proposed development. Concerns were raised in relation to:

- *The poor quality and lack of detail of the Site Analysis Plan / Site Plan / Drainage Details / Staging Plan*

Comment: Council agrees with the objector's concerns and does not support the proposed development and supporting documentation.

- *The applicant fails to demonstrate through a Clause 4.6 variation, that there are sufficient environmental planning grounds to justifying contravening the excessive height.*

Comment: Council agrees with the objector's concerns as addressed in the assessment of the proposal pursuant to the SEPP SRGC

- *Isolation of the adjoining western site given the proposed RFBs, as the adjoining site would have a block with a depth of 25m between the boundary and the Indicative Layout Plan (ILP) road to be constructed on that allotment.*

Comment: Council agrees with the objector's concerns as addressed in the assessment of the proposal pursuant to the SEPP No.65.

- *Overshadowing of land on the adjoining western lot exacerbated by the 25m narrowness of that future lot.*

Comment: Council agrees with the objector's concerns as addressed in the likely impacts of the development and as assessed against the DCP requirements.

- *Deficiency in appropriate privacy mitigation measures and quality landscaped areas.*

Comment: Council agrees with the objector's concerns as addressed in the assessment of the proposal pursuant to the SEPP No.65.

- *Poor quality and poor consideration given to the location of Communal Open Space at Ground Level (due to overshadowing).*

Comment: Council agrees with the objector's concerns as addressed in the assessment of the proposal pursuant to the SEPP No.65.

- *Lack of adjoining owner's consent for the removal of trees partially on an adjoining site.*

Comment: Council agrees with the objector's concerns as addressed in the likely impacts of the development and as assessed against the DCP requirements.

- *The extent of Basement Car-Park extending to boundaries thereby not allowing deep soil zones along boundary setbacks, and restricting the possibility of quality landscaped areas in these areas on-site.*

Comment: Council agrees with the objector's concerns as addressed in the likely impacts of the development and as assessed against the DCP requirements.

- *Lack of detail in the Acoustic Report, which does not assess the impact of the development on adjoining sites including, from the car-park ramp to the adjoining western land, and proposed mechanical plant.*

Comment: Council's Environmental Health Officers did not make a final assessment on the acoustic impact of the development on adjoining sites, as there was a significant amount of requested information which had not been provided for assessment, and which was expected to amend the scale and scope of the development. Council agrees that additional information would have been requested to address this impact.

6.9 Section 4.15(1)(e) – The Public Interest

It is considered that the application has not sufficiently demonstrated that the proposed development is worthy of support. It is considered that this development is not in the public interest as it would set an undesirable precedent which would result in a burden on infrastructure not commensurate with that which has been planned for in the locality, and

which would ultimately result in disorderly and incoherent development, which is not envisioned or enshrined in the SEPP SRGC.

Further, the proposed development is poorly designed and would result in a multitude of deficient design outcomes demonstrating non-compliance with minimum requirements of the SEPP SRGC, SEPP No.65, Growth Centres DCP, as well as not meeting the objectives and provisions of SREP No.20 and SEPP No.55.

In addition, in agreement with the submitted objection, it is considered the development would result in an unacceptable impact on the development potential of an adjoining site and would set an undesirable precedent with respect to considerations of material and economic impacts of future development.

As such, it is concluded that the proposal in its current form is not in the public interest.

7 DEVELOPER CONTRIBUTIONS

Section 7.11 Contributions would be imposed in accordance with the Liverpool Contributions Plan 2014 Austral and Leppington North. A Special Infrastructure Contribution condition would also be required. The development attracts a total Section 7.11 contribution of **\$5,266,528.00** (March Quarter 2019).

8 CONCLUSION

In conclusion, the following is noted:

The application has been assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, the applicable State Environmental Planning Policies, the Growth Centres DCP, and the relevant codes and policies of Council.

The proposed development is permissible within R3 Medium Density Residential zones under SEPP SRGC, however, the proposal is inconsistent with and does not satisfy the key considerations of SEPP SRGC SEPP No. 65 and the Growth Centres DCP, with respect to the excessive density, height and character of the proposed development. In addition, the submitted details and information are deficient in relation to site contamination, traffic outcomes and cumulative impacts on the street network and design, overland flow and water quality management, and in providing the required adjoining owner's consent regarding isolation of an adjoining site, the necessity for creating easements to manage drainage on an adjoining site, and impact on trees on an adjoining site.

Based on the assessment, the application is considered to be unsupportable and unsatisfactory in establishing the merits of the development and is likely to result in adverse impacts upon the desired planning outcomes and desired future built environment of the locality. Accordingly, in accordance with the reasons for refusal as stated in the report including a lack of information, it is recommended that the application be refused.

9 RECOMMENDATION

THAT pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application DA-574/2017 be refused for the following reasons;

REASONS FOR REFUSAL

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following relevant provisions of Appendix 8 Liverpool Growth Centres Precinct Plan in State Environmental Planning Policy (Sydney Region Growth Centre) 2006:
 - a) The proposed development is inconsistent with the first and second objective of the *R3 – Medium Density Residential* zone as it does not promote a medium density residential environment, and does not provide a variety of housing types within a medium density environment.
 - b) The proposed development is inconsistent with Clause 4.1B Residential Density objective (b) and (c) given the excessive density proposed, and as it is not compatible in scale with the precinct as provided for in the Precinct Plan, and is not in character with the desired future locality.
 - c) The proposed development and proposed removal in entirety of healthy native vegetation is inconsistent with the objective of Clause 5.9 Preservation of Trees or Vegetation, as it does not attempt to retain existing vegetation and incorporate it into the proposed design.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the development standard for maximum building height (or the objectives of the standard) in Clause 4.3 of Appendix 8 in SEPP SRGC and the consent authority is not satisfied that the written request made under Clause 4.6 of Appendix 8 in the SEPP SRGC relating to the contravention of the development standard has been adequately addressed.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant provisions of State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, in terms of the following:
 - a) The proposed development is inconsistent with the following Design Quality Principles;
 - i. Principle 1: Context and Neighbourhood Character as it would create an undesirable precedent not consistent with the principle;
 - ii. Principle 2: Built Form and Scale due to it excessive design

- iii. Principle 3: Density as the proposed density is inconsistent with the area's existing or projected population;
 - iv. Principle 4: Sustainability due to excessive built form and significant deficiency in deep soil and landscaped areas
 - b) The proposed development does not comply with Clause 30(2) as it is inconsistent with objectives 1A, 1B, 1C, 2A, 2B, 2C, 2E, 3A, 3B, 3D, 3E, 3G, 3H, 4A, 4E, 4F and 4N of the Apartment Design Guide (ADG).
- 4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not demonstrate compliance with State Environmental Planning Policy No.55 – Remediation of Land, Clause 7, as it has not been determined to satisfy the requirements that the land is not contaminated and that the site is suitable or will be made suitable for the scope of works and residential use proposed.
- 5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not demonstrate compliance with the relevant Sydney Regional Environmental Plan No.20 – Hawkesbury-Nepean River (No. 2 – 1997) (Deemed SEPP), Clause 4, as it has not been determined to satisfy the principles in Clause 5 and 6.
- 6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of Liverpool Growth Centre Precincts Development Control Plan:
 - a) Section 2.3.1 – Flooding
 - b) Section 2.3.2 – Water Cycle Management
 - c) Section 2.3.5 – Native Vegetation and Ecology,
 - d) Section 2.3.7 – Site Contamination
 - e) Section 3.1.1 – Residential Density as:
 - i. the development would not to contribute to meeting the overall dwelling target, rather it would contribute to excessively exceeding that target;
 - ii. only residential flat buildings are proposed in an area not close to a local centre, the only dwelling typology expected in the 25-30dw/ha band is predominantly small lot housing with some multi-dwelling housing, manor homes, and residential flat buildings located close to the local centre and public transport; and
 - iii. buildings are generally to be single and double storey with some three storey, and only four storey buildings are proposed.
 - f) Section 3.1.4 – Corner lots

- g) Section 3.2 – Subdivision Approval Process
 - h) Section 3.3.1 – Street Network Layout and Design
 - i) Section 4.3.5 – Controls for Residential Flat Buildings
7. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the submitted Architect Design Verification Statement is inconsistent with Clause 50 of the EP&A Regulations 2000 as it does not demonstrate how the design quality principles and Apartment Design Guide objectives in Parts 3 and 4 are achieved.
8. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development has not adequately demonstrated the likely impacts of the development, and based on the information submitted, is likely to have an adverse impact in terms of the following:
- a) Natural Environment - the removal of vegetation results in a considerable and unnecessary loss of amenity from the locality, of which some could otherwise be retained and incorporated into the development design. In addition, the design of the proposed stormwater works are insufficient in meeting the water management and quality requirements for the locality and would likely result in the disruption to ecological systems and existing natural water flows to potentially impact adjoining sites. Adjoining owners consent has not been provided for the proposed drainage scheme which extends into neighbouring property. There are also trees on an adjoining site which the arborist report suggests would not survive development to the extent proposed and for which owner's consent has not been obtained to remove.
 - b) Built Environment - proposed development is likely to create significant adverse impacts on the surrounding future built environment and is considered an overdevelopment due to excessive density, bulk and scale and height, and likely impact on existing downstream property without adjoining owner's consent acknowledging the impact.
 - c) Social Impact and Economic Impact - proposed development is likely to generate detrimental social and economic impact in proposing an excessive residential density, and setting an undesirable precedent by placing an increased burden on infrastructure not planned for.

The design does not provide an appropriate mix of development required to cater for a range housing outcomes required in the social context and does not provide any affordable housing. It also proposes deficient landscaped and communal open space areas in a locality which is deficient of land zoned for public recreation open space.

The likely impact of the development would place an undue strain on the existing and planned infrastructure (as provided for in the Growth Centres Contributions Plan), such that it would render the development of the precinct over time inefficient, and continually requiring infrastructure upgrade in response to excessive developments not planned for.

The development would immediately result in traffic congestion to the street network not appropriately addressed by the application, as development is expected to coherently develop around it in the locality.

9. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development has not adequately demonstrated the suitability of the site for the development, and has not satisfied Council's independent Design Excellence Panel that the site is suitable for the proposed development, as it has concluded it is generally not satisfactory with respect to the provisions of SEPP No.65 and the guidelines of the ADG.
10. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposal is not considered to be in the public interest, with respect to the reasons stated above.

10 ATTACHMENTS

1. Architectural plans
2. Statement of Environmental Effects
3. Draft conditions of consent (without prejudice)
4. Clause 4.6 Variation Written Justification to Height
5. SEPP 65 Verification Statement, Design Principles and Compliance Table
6. Landscape plan
7. Waste Management Plan
8. Traffic Report
9. Contamination Cover Letter
10. Preliminary Site Investigation
11. Stormwater and Flooding Report
12. Civil Drawings
13. Heritage Impact Statement
14. BCA and Accessibility Compliance Report
15. Acoustic Report
16. Arborist Report
17. BASIX Certificate Blocks A & B
18. BASIX Certificate Blocks C & D