

Report to Sydney West Central Planning Panel

Panel reference	2017SWC006
DA number	SPP-16-04463
Proposed development	Subdivision, new public roads, 9 x residential flat buildings and a neighbourhood shop
Street address	41 Terry Road, Rouse Hill
Applicant	Sutherland and Associates Planning Pty Ltd
Landowner	Denvell Pty Limited
Date of DA lodgement	9 December 2016
Number of submissions	None
Regional development criteria (Schedule 4A of the EP&A Act)	Capital investment value (CIV) over \$20 million (DA has CIV of \$95.1 million)
All relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • Blacktown City Council Growth Centre Precincts Development Control Plan 2016 • Draft Central City District Plan
Report prepared by	Blacktown City Council
Report date	16 January 2018
Recommendation	Approval subject to conditions

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s94EF)? Yes

Conditions

Have draft conditions been provided to the applicant for comment? Yes

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ATTACHMENTS

Attachment 1	–	Location map
Attachment 2	–	Aerial image
Attachment 3	–	Zoning extract
Attachment 4	–	Detailed information about proposal and DA submission material
Attachment 5	–	Development application plans
Attachment 6	–	Assessment against planning controls
Attachment 7	–	Consideration of lower level apartments
Attachment 8	–	Applicant's design report for lowered apartments
Attachment 9	–	Building height plane
Attachment 10	–	Applicant's Clause 4.6 request to vary building height
Attachment 11	–	Council assessment of Clause 4.6 request to vary building height
Attachment 12	–	Windtech certification for cross ventilation plenums
Attachment 13	–	Draft conditions of consent

1 Executive summary

- 1.1 This report considers a proposal for subdivision, new public roads, 9 x part 4 and part 5 storey residential flat buildings containing 332 apartments, a neighbourhood shop and associated landscaping and stormwater infrastructure at 41 Terry Road, Rouse Hill.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is therefore satisfactory when evaluated against Section 79C of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions.

2 Key issues list

- 2.1 The key issues that need to be considered by the Panel in respect of this application are:
 - a. **Building height variation** (Section 8.1) - The application seeks a building height variation of 25%. This is for parapets, rooftop privacy screens and rooftop lift

overruns up to 3.05 m above the permissible height limit. The variation has been assessed and is considered acceptable on its merits.

- b. **Building street setbacks** (Section 8.2) – The balconies on Level 3 have a setback to the street frontages of 4.5 m, where 6 m is required. This balcony encroachment is considered suitable in this instance as the balconies are the primary form of façade articulation in what is an otherwise simple building design. The retention of the balcony encroachment for Level 3 is considered to ‘complete’ the presentation of the building.
- c. **Natural cross ventilation** (Section 8.3) - The application seeks alternate techniques to achieving natural cross ventilation to 60% of the apartments as required by Part 4B Natural Ventilation of the ADG, such as plenum ducts and skylights. The overall development is considered to achieve a suitable level of amenity through natural cross ventilation, and is acceptable in this instance.
- d. **Split level apartments** (Section 11.2) - The proposed development comprises 42 split level apartments which are below the new expected ground level in relation to the new roads, which is inconsistent with Part 4L Ground Level Apartments of the ADG. This affects 27 apartments along the northern side of Buildings B, C and D. There are also 15 split level apartments which comprise a lower level which is up to 1.5 m below the proposed internal courtyards. The design of these apartments are considered to be a specific response to the site constraints, which carefully considers solar access, orientation and apartment layout, and are acceptable in this instance.
- e. **Matter raised by the general public** (Section 9) – One comment was received from a member of the public, however they did not formally object to the application. Rather, the comment identifies that the proposal does not include an allowance for wildlife and native birds and is not considered to warrant refusal of the application.

3 Location

- 3.1 The site is located within the Area 20 Precinct within the North West Priority Growth Area as identified by the Growth Centres SEPP. It is located within the suburb of Rouse Hill.
- 3.2 The location of the site is shown in Attachment 1. The land immediately to the north, east and south of the site is zoned R3 Medium Density Residential, with a building height limit of 12 m. The land to the west on the opposite side of Terry Road is zoned R2 Low Density Residential with a building height limit of 8.5 m and development is currently under construction there for 50 x two storey dwellings.
- 3.3 Rouse Hill Town Centre is located approximately 1 km to the south-east. The under construction Sydney Metro Northwest Station is approximately 750 m to the south-west.

4 Site description

- 4.1 The site currently contains a dwelling, associated structures and a dam. The current registered land is Lot 211 DP 208203.
- 4.2 The site is an irregular rectangular shape with a road frontage to Terry Road to the west. The total site area is 2.128 ha.
- 4.3 An aerial image of the site and surrounding area is at Attachment 2.

5 Background

- 5.1 On 21 October 2011, the site was rezoned to R3 Medium Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006. The zoning plan for the site and surrounds is at Attachment 3. The site was previously zoned 1(a) General Rural under Blacktown Local Environmental Plan 1988.

6 The proposal

- 6.1 The Development Application (DA) has been lodged by Sutherland and Associates Planning Pty Ltd for the construction of 9 x part 4/part 5 storey residential flat buildings and 1 neighbourhood shop. A total of 332 residential apartments are proposed which are a mix of traditional apartment designs and townhouse style designs (double storey apartments).
- 6.2 The applicant proposes the construction of 2 basement levels with 471 car parking spaces. Two separate vehicle access points are proposed to the basements from the new southern boundary road.
- 6.3 The maximum building height of the development is 15.05 m. The development exceeds the height limit by 3.05 m over limited portions of the roof parapet, rooftop privacy screening and lift overruns of the buildings, above the maximum height limit of 12 m under the Growth Centres SEPP. The proposed height variation is discussed in detail in Section 8 below.
- 6.4 The proposal has an FSR of 1.4:1, which is compliant with the maximum FSR of 1.75:1 permissible on the site under the Growth Centres SEPP.
- 6.5 The proposal provides for 6 m building setbacks to public roads and adjoining properties, with balconies encroaching within this setback by up to 1.5 m.
- 6.6 Communal open space areas are separated in 3 common rooms and 3 internal courtyard areas between the buildings. These areas are appropriately embellished with a range of hard and soft landscaping features, BBQ facilities with tables and seating, pathways, turfed areas and tree shaded areas.
- 6.7 The overall design concept is for courtyard houses with a strong external 'city' wall which protects inner courtyard gardens and apartments. This approach is intended to combine land and garden through housing diversity, courtyards, communal spaces and the 'backyard'. The external façade is a natural finished concrete and contrasts are created with an ordered series of windows and perforated screens. The presentation of the site is further complimented by landscaping designed throughout the development. The buildings present a contemporary design that assist in setting a high quality standard for the transitioning character of this locality and creates a desirable streetscape.
- 6.8 A Design Verification Statement prepared by registered architect David Thompson of Rothe Lowman has been prepared for the development, in accordance with the requirements of SEPP 65.
- 6.9 Other details about the proposal are at Attachment 4 and a copy of the development plans is included at Attachment 5.

7 Assessment against planning controls

- 7.1 A full assessment of the DA against the relevant planning controls is provided in Attachment 6, including:
- Environmental Planning and Assessment Act 1979

- b. State Environmental Planning Policy (State and Regional Development) 2011
- c. State Environmental Planning Policy (Infrastructure) 2007
- d. State Environmental Planning Policy No. 55 – Remediation of Land
- e. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- f. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- g. State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- h. Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
- i. Blacktown City Council Growth Centre Precincts Development Control Plan 2016
- j. Draft Central City District Plan.

8 Key planning issues assessment

8.1 Building height variation to the Growth Centres SEPP development standard

- a. The proposal seeks to vary the building height by up to 3.05 m above the permissible height limit of 12 m, over limited portions of the roof parapet, rooftop privacy screening and lift overruns of the buildings, being a variation of 25 %.
- b. No element of a habitable floor or room is located above the height limit. The part 4/part 5 storey buildings are considered to be consistent with the 12 m height limit permissible on the site.
- c. The rooftop plant and equipment and lift overruns are centrally located and will have minimal visibility from the street. The additional 3.05 m in height is therefore considered acceptable. The variation is considered to be substantially offset within the development site, with significant portions of the development below the maximum height limit as shown on the Height Plane Plan at Attachment 9.
- d. The portions of the roof structures that exceed the height limit do not result in excessive bulk and scale and do not result in adverse shadow and amenity impacts on surrounding properties.
- e. The Applicant also identifies that there is no specific correlation between the areas of height variation and the location of lower level apartments, with some areas of height variation not located above lower level apartments. Conversely, there are locations where the development is below the height control but lower level apartments have been provided. The height variations arise as a result of the varied topography across the site and the desire to deliver a 4 storey development within a 12 m height control.
- f. The site has a ridge within the development site, falling 7.4 m from the south-east corner of the site to the western boundary. As site benching and earthworks are required to meet civil grades and construction of the surrounding road network, strict compliance would be unreasonable in the circumstances.
- g. The Applicant has submitted a written Clause 4.6 request to justify that compliance with the height development standard is unreasonable and unnecessary in this instance.
- h. There are sufficient environmental planning grounds to justify varying the development standard. A copy of the applicant's written request is held at Attachment 10.

- i. Council officers consider that the variation will not have unreasonable impacts on the neighbouring properties or the character of the area. The proposal is also consistent with the objectives of the development standards and the R3 Medium Density Residential Zone.
- j. Attachment 11 identifies the Council officer assessment of the relevant Land and Environment Court matters for a consent authority to take into consideration when deciding whether to grant concurrence to the variation to a development standard.

8.2 Building street setbacks

- a. The DCP requires a 6 m building setback to the new public streets. The DCP also provides for an allowance for balconies and other articulation to encroach into the setback to a maximum of 4.5 m from the boundary for the first 3 storeys. The proposal satisfies the 6 m building setback, but applies the balcony encroachment allowance to all of its levels. Excluding counting the lower levels as a 'storey' given they are below the level of the public domain (being the lower level of 27 split level apartments along the northern boundary of the site), this results in a variation to this control for the fourth storey (the top level referred to as Level 3), which affects 44 balconies on Level 3.
- b. The encroachment of the Level 3 balconies into the 6 m building setback is considered suitable in this instance, as the balconies are the primary form of façade articulation in what is an otherwise simple building design. As demonstrated in Figure 1 below, and the plans and applicant's design report provided at Attachments 5 and 8, the retention of the balcony encroachment for Level 3 is considered to 'complete' the presentation of the building.



Figure 1: Perspective view of the proposed streetscape façade, which demonstrates that the projecting balconies are a primary source of visual interest in the design of the building

- c. The deletion of the balconies on Level 3 (the top level) would detract from the opportunity to create a consistent streetscape frontage and an interesting design feature. Therefore, the encroachment of the Level 3 balconies is supported in this instance.

8.3 Natural cross ventilation

- a. To achieve natural cross ventilation to at least 60% of the total of 332 apartments, as required by Part 4B Natural Ventilation of the ADG, the following alternate techniques are proposed:
 - 13 apartments on the Ground Level, Level 1 and Level 2 rely on the use of plenum ducts, being 4 % of the apartments. Plenum ducts are a space

between the structural ceiling and the dropped ceiling that can facilitate air circulation

- 42 apartments on Level 3 (the top level) rely on rooftop ventilating skylights, being 13 % of the apartments.
- b. The Applicant has submitted technical verification of the effectiveness of the proposed plenum ducts to provide natural cross ventilation, prepared by Windtech Consultants and provided at Attachment 12. Figure 2 below demonstrates this design.

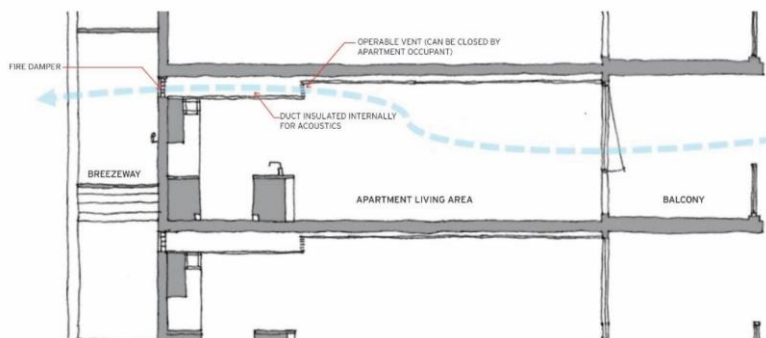


Figure 1 – Example Section View of Plenum Duct Design

Figure 2: Extract from the technical verification of the proposed plenum ducts to be applied to 13 apartments to achieve natural cross ventilation.

- c. The overall development is considered to achieve a suitable level of amenity through natural cross ventilation, subject to these alternate techniques. Subject to conditions to ensure that these ventilation methods are appropriately installed and reflect the relevant fire safety and acoustic requirements, residents' access to natural cross ventilation is acceptable in this instance.

9 Matter raised by the public

- 9.1 The proposed development was notified to property owners and occupiers within the locality between 8 and 21 February 2017. The DA was also advertised in the local newspapers, including the Blacktown City Sun, and a sign was erected on the site.
- 9.2 During the notification period, 1 comment was received from the tenant of the subject site. However, they did not formally object to the application. The comment identifies that the proposal does not include an allowance for the wildlife (including green frogs within the dam) and native birds which inhabit the site, likely due to the removal of trees in the surrounding area for recent subdivisions and dwellings.
- 9.3 It is noted that biodiversity certification applies to this land. The removal of trees, vegetation and habitat for the purpose of redevelopment in line with the Growth Centres SEPP and Area 20 Precinct Plan is permitted where replacement trees and landscaping are provided. The proposal provides for this and conditions of consent are also recommended to be imposed requiring the applicant to take appropriate actions to protect and relocate any fauna that is present during construction works. Therefore the comment from the member of the public does not warrant refusal of the DA.

10 External referrals

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

Section	Comments
Roads and Maritime Services (RMS)	RMS raised concern that the proposal does not provide adequate justification for the additional 60 residential car parking spaces and that consideration should be given to reducing the residential car parking to minimise the cumulative traffic impact of the proposed development. RMS also requested that performance modelling of the nearby intersections be conducted by the Applicant. Refer to Section 11.1 below for our response to this comment.
NSW Local Police	Acceptable subject to conditions.
Sydney Water Corporation	Acceptable subject to conditions.

11 Internal referrals

- 11.1 Council's Access and Traffic Management Section (ATMS) has reviewed the proposal in light of the comments raised by RMS in Section 10.1 above, and confirms that they do not support RMS' view that additional car parking spaces should not be provided within the development. ATMS supports the provision of additional car parking spaces within the basement levels of this proposal as it will assist with reducing the demand for on-street car parking. On-site parking is also advantageous given that the distance from the site to the railway station is at least 750 m for future residents. Given ATMS support of the proposal, the comments from RMS are not considered relevant to this assessment.
- 11.2 Council's City Architect has reviewed the proposal, with particular regard to the proposed double level apartments which are partly below the proposed public domain levels, and advises that apartments which are below ground are typically not supported, however this is a site-specific design response to site constraints which is applied to only a portion of the site. Our City Architect advises that the design of the units that are below ground in this development carefully consider solar access, orientation and apartment layout (i.e. 2 storey apartments) and will be acceptable. Also refer to Attachment 7 for our consideration of the lower level apartments and Attachment 8 for the Applicant's Design Report which addressed their approach for the design of the lower level apartments.
- 11.3 The DA was referred to the internal sections of Council and is considered acceptable subject to conditions.

12 Conclusion

- 12.1 The proposed development has been assessed against all matters for consideration and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

13 Recommendation

- 13.1 The Development Application be approved by the Sydney Central City Planning Panel subject to the conditions held at Attachment 13.



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JRPP-16-04463 – 9 x Residential flat buildings, 41 Terry Road, Rouse Hill



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