

Assessment report to Sydney Central City Planning Panel

Panel reference: 2017SWC014

DA number	SPP-16-04467	Date of lodgement	22 December 2016
Applicant	Toplace		
Owner	JKN Station Pty Ltd		
Proposed development	17 residential flat buildings in 6 stages		
Street address	14 Schofields Road, Schofields		
First notification period	8 February to 9 March 2017	First notification: Number of submissions	9 individual submissions.
Second notification period	11 October 2017 to 25 October 2017.	Second notification: Number of submissions	6 individual submissions, 1 petition with 7 signatures and 6 pro forma letters.

Assessment

Panel criteria (Schedule 7, SEPP (State and Regional Development) 2011)	Capital investment value (CIV) over \$20 million (DA has CIV of \$373.3 million).
Relevant section 4.15(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 (Infrastructure) 2007 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • 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 (Sydney Region Growth Centres) 2006 • Blacktown City Council Growth Centre Precincts Development Control Plan 2018 • Central City District Plan 2018
Report prepared by	Holly Palmer, Senior Project Planner
Report date	12 July 2018
Recommendation	Approve, subject to conditions listed in attachment 11.

Attachments

1. Location map
2. Aerial image
3. Zoning map and height of buildings map extracts
4. Proposed subdivision plan
5. Detailed information about proposal and DA submission material
6. Development application plans
7. Assessment against planning controls
8. Applicant's Clause 4.6 request
9. Council assessment of Clause 4.6 request
10. Issues raised by the public
11. Draft conditions of consent

Checklist

Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 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 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 (section 7.24)? Yes

Conditions

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

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1 Executive summary

- 1.1 This report considers a Development Application (DA) for the construction of 17 residential flat buildings comprising 1,381 apartments, 1,735 car parking spaces in 2 to 3 basement levels and associated landscaping and stormwater drainage works at 14 Schofields Road, Schofields.
- 1.2 The key issues that need to be considered by the Panel in respect of this application are:
- The proposed buildings exceed the maximum permitted building height.
 - The proposal is not consistent with the Alex Avenue Precinct Indicative Layout Plan for new public roads.
 - The proposed buildings do not satisfy the minimum required setback to the secondary street frontage, side and rear setbacks.
 - The proposal exceeds the dwelling density exhibited in the draft amendment to the Growth Centres SEPP.
 - Issues raised in public submissions which are considered in detail at **Section 8** of this report. The objections are not considered sufficient to warrant the refusal of the Development Application.
- 1.3 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.
- 1.4 The Applicant's request to vary the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* development standard for height of buildings has been assessed, being a variation of up to 1.5 metres above the permissible height limit of 16 metres relating to rooftop elements. We consider the proposed 4 and 5 storey development to be consistent with the form and type of development envisaged by the Alex Avenue Precinct Plan and will result in a better planning outcome.
- 1.5 Assessment of the application has also been undertaken in accordance with clause 7 of *State Environmental Planning Policy No. 55 (Remediation of Land)* and we are satisfied that the site can be made suitable for residential development subject to conditions.
- 1.6 The application is considered satisfactory when evaluated against section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- 1.7 This report recommends that the Panel support the use of the Clause 4.6 request to vary a development standard in this instance and approve the application subject to the conditions listed at **attachment 11**.

2 Location

- 2.1 The site is located within the suburb of Schofields. The site is within the Alex Avenue Precinct within the North West Growth Area as identified by *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP). The site is to the south of the Sydney Metro Northwest rail link. Schofields Railway Station and the future Local Centre are to the south-west of the site. The location of the site is shown in **attachment 1**.

- 2.2 The immediate locality is in transition, comprising a mix of rural-residential properties, properties under development and developed, for subdivision and dwelling houses, residential flat buildings and a Woolworths supermarket. The site also bounds the Schofields Zone Substation. An aerial image of the site and surrounding area is at **attachment 2**.
- 2.3 The site and area of land along Schofields Road are zoned R3 Medium Density Residential. Schofields Road, including part of this land for road widening purposes, is zoned SP2 Infrastructure Classified Road. Parts of this site and land to the south are zoned SP2 Infrastructure Local Road. Parts of this site and land to the north-east and south (Eastern Creek) are zoned SP2 Infrastructure Drainage. Parts of this site and land to the east are zoned SP2 Infrastructure Educational Establishment. There are several area of land zoned RE1 Public Recreation surrounding this site. The Local Centre is located to the south and is zoned B2 Local Centre and B4 Mixed Use. The zoning map for the site and surrounds is at **attachment 3**.
- 2.4 The site and surrounding properties zoned R3 Medium Density have a permitted building height of 16 metres. The Local Centre to the south has a permitted building height of 7.5 metres and 18 metres. The height of buildings map for the site and surrounds is at **attachment 3**.

3 Site description

- 3.1 The 12.02 hectare site is irregular in shape and is currently registered as Lot 121 in DP 1203646. This proposal is over proposed lots 1 to 6 in a subdivision of Lot 121 (DA-13-01712 as proposed to be modified in MOD-17-00045). The high point of the site is approximately at the intersection of Farmland Drive at the east of the site. With regard to the portion of the site zoned for residential purposes, the site slopes downwards by approximately 8 metres to the north towards Schofields Road, and the site slopes downwards by approximately 10 metres to the west and south towards Eastern Creek.
- 3.2 The primary road access is via Schofields Road at the intersection of Junction Road at the north corner of the site. In future, Junction Road will be extended from the north to the south of the site and connect with Jerralong Drive. New local roads have recently been constructed to the east of the site, being Heathland Avenue and Farmland Drive.
- 3.3 Parts of the site have been subject to clearing and general works. The site is grassed with scattered trees and vegetation which are predominantly located at the north corner of the site and in the vicinity of Eastern Creek to the south. An aerial image of the site is at **attachment 2**.

4 Background

- 4.1 On 17 May 2010, the overall site was rezoned to R3 Medium Density Residential and SP2 Infrastructure Classified Road, SP2 Infrastructure Drainage and SP2 Infrastructure Educational Establishment under the Growth Centres SEPP. The zoning map and height of buildings map for the site and surrounds is at **attachment 3**.
- 4.2 On 15 April 2014 we approved DA-13-01712 for the creation of residue lots for residential development, construction of new public roads, demolition of all structures and removal of all trees.
- 4.3 On 22 December 2016, this application was lodged.

- 4.4 On 23 February 2017 modification application MOD-17-00045 was lodged to modify the subdivision of the site to match the road layout proposed in this application. This amendment is being finalised for approval. The proposed amended subdivision plans are at **attachment 5**.
- 4.5 The works the subject of this application are wholly contained within new superlots lots 1 to 6 inclusive in accordance with the approved subdivision application detailed above.

5 The proposal

- 5.1 The Development Application for residential flat buildings at 14 Schofields Road, Schofields has been lodged by Toplace.
- 5.2 The Applicant proposes to construct 16 x 5 storey residential flat buildings and 1 x 4 storey residential flat building comprising a total of 1,381 dwellings, 1,735 car parking spaces with 2 to 3 basement levels and associated landscaping and stormwater drainage works.
- 5.3 The building heights range from 9.15 metres to 17.5 metres (including the roofline and rooftop plant and equipment). The majority of the proposed development exceeds the maximum building height for development on this site of 16 metres under the Growth Centres SEPP.
- 5.4 Refer to **attachment 4** for further details of the proposal with regard to floor space ratio, dwelling mix, road layout, setbacks, trees, landscaping, communal and private open space and design verification.
- 5.5 Refer to **attachment 6** for a copy of the development plans.

6 Assessment against planning controls

- 6.1 A full assessment of the Development Application against the relevant section 4.15(1)(a) matters is provided at **attachment 7**.

7 Key issues

7.1 Proposed buildings exceed the maximum permitted building height

- 7.1.1 The proposal seeks to vary the building height by up to 1.5 metres above the permissible height limit of 16 metres, being a variation of 9.3 %.
- 7.1.2 The Applicant has submitted a written Clause 4.6 request (see **attachment 8**) to justify that compliance with the height of buildings development standard is unreasonable and unnecessary in the circumstances of the case. The Applicant's justification for contravening the development standard on environmental planning grounds is:
- The site will be developed to provide new roads, footpaths and landscaped setbacks. The proposed building layouts and relationship with the new public domain will achieve the desired future character for this emerging precinct.
 - The additional height to small parts of the buildings due to the topography of the site as demonstrated below is consistent with the aims of the Apartment Design Guide in relation to building height in particular 'changes in landform are accommodated.'

- The topography combined with the amalgamated basement levels will see some buildings higher than others. However, the benefits of amalgamated basement levels far outweigh the impacts of the minor height non-compliance across the precinct. The resulting benefit will be that the communal open space will remain level and accordingly have improved functionality and provide disabled access for the benefit of future residents.
- The increased heights have been off-set across the site with 88.5% of the roof plan of the buildings compliant or below the height control and this flexible outcome results in a highly appropriate development that will achieve the desired characteristics of the emerging precinct without any detrimental effects.
- In response to the surrounding development which as approved do not meet their permitted development type or density, Building A has been reduced to a part 3 and part 4 storey building. As development of the site as a whole, it is appropriate to reduce height in sensitive locations and enable this to be 'shifted' or 'offset' by a variation in other parts of the site without the same sensitivities.
- The proposed development is well below the density anticipated by this site established by the Floor Space Ratio (FSR) control. The Growth Centres SEPP permits a maximum FSR of 1.75:1. The development application provides a maximum FSR of 1.35:1. By the flexible application of the height control, this enables the site to achieve a reasonable development density although significantly lower than the maximum FSR permitted.
- The proposed orientation and layout of the eleven new buildings are generally consistent with the indicative road layout contained in the Growth Centres Development Control Plan. The minor height variations across the precinct will not detrimentally affect adjoining properties and will maintain a high level of amenity within the new development with 71% of units receiving at least 2 hours of sunlight on 21 June and 60% of units achieving natural cross-ventilation.
- The minor variations to the height control will not be readily visible from the public domain. Therefore the urban design outcome is consistent with what the controls envisioned for this precinct.

7.1.3 **Attachment 9** identifies our assessment of the adequacy of the request in deciding whether to grant concurrence to the variation to a development standard. There are sufficient environmental planning grounds to justify varying the development standard and we consider that the variation will not have unreasonable impacts on the neighbouring properties or the character of the area. The Clause 4.6 variation request is considered reasonable and well founded in this particular circumstance and is recommended for support to allow flexibility in the application of the development standard.

7.2 The proposal is not consistent with the Alex Avenue Precinct Indicative Layout Plan

- 7.2.1 The public road layout differs from the Alex Avenue Precinct Indicative Layout Plan by the deletion of two north-south roads adjacent to the substation, a north-south road adjacent to the SP2 Infrastructure Drainage land at the western end of the site and an east-west road adjacent to Schofields Road.
- 7.2.2 However, the road layout was considered and is supported for approval in the current modification application for the subdivision of the site (MOD-17-00045 to

DA-13-01712). This application for residential flat buildings is consistent with the proposed amended subdivision, provided at **attachment 5**.

7.3 The proposal does not satisfy the minimum required setbacks

- 7.3.1 With regard to the secondary setback for corner lots, the side setbacks and rear setbacks; the Growth Centres Development Control Plan requires a setback of 6 metres. This application seeks to vary these development controls with some private balconies and architectural elements have a setback of only 4.5 metres.
- 7.3.2 Although the full extent of the street setback isn't achieved, the proposal offers an interesting and high quality streetscape presentation which is considered satisfactory on its merits.
- 7.3.3 However, the Apartment Design Guide does not include a numerical requirement for street setbacks, and directs that consideration is to be given to providing articulation zones accommodating space for building entries, ground floor courtyards, balconies, landscaping, deep soil zones and to 'use a setback range where the desired character is for variation within overall consistency.' The proposal is consistent with these guidelines.
- 7.3.4 Although the full extent of the street setback is not achieved, the proposal offers an interesting and high quality streetscape presentation which is considered satisfactory on its merits.

7.4 The proposal exceeds the dwelling density control exhibited in the draft amendment to the Growth Centres SEPP

- 7.5.1 Prior to the lodgement of this application, a draft amendment to the Growth Centres SEPP 2006 was exhibited by the Department of Planning and Environment in May 2017, referred to as the 'North West Draft Exhibition Package.' This exhibition was undertaken to coincide with the release of the Land Use and Infrastructure Implementation Plan (the purpose of which is to guide new infrastructure investment, make sure new developments don't impact on the operation of the new Western Sydney Airport, identify locations for new homes and jobs close to transport, and coordinate services in the area).
- 7.5.2 The DPE is proceeding with finalising the density bands across some of the precincts in the North West Growth Area in the Blacktown local government area, excluding the precincts of Area 20, Schofields and Marsden Park, following exhibition in 2017 and the receipt of many objections. The timing is uncertain at this stage.
- 7.5.3 This site is within the Alex Avenue Precinct, and the maximum density bands demonstrated in the exhibition package is 100 dwellings per hectare, which equates to a maximum of 878 dwellings on this site. This proposal is for 1,381 dwellings, being an additional 503 dwellings above that anticipated in the Exhibition Package. Although the proposal is inconsistent with the maximum dwelling density exhibited in May 2017, there is no certainty or imminence to these amendments coming into effect, and therefore this is not a matter that should be given determinative weight in consideration of this application.

8 Submissions

- 8.1 The proposed development was notified to property owners and occupiers within the locality between 8 February and 9 March 2017. The Development Application was also advertised in the local newspapers, including the Blacktown City Sun, and a sign was erected on the site. 9 individual submissions were received.
- 8.2 The submissions raised concern with regard to density, height of buildings, number of storeys, crowding, monoculture of higher density dwellings, setbacks, garbage design, building design, changes to the road layout in the Indicative Layout Plan, apartment mix and removal of native vegetation.
- 8.3 Concern was also raised regarding the capacity of local amenities, risk of the Sydney property price bubble impacting on the commercial viability of developments, significant change to the character of the local area, impact with regard to geotechnical, contamination, tree removal and aboriginal heritage matters.
- 8.4 In response, the Applicant submitted amended plans which included reducing the number of storeys from 5 storeys to part 3 / part 4 for Building A; and increasing the building separation and outlook to the adjoining properties to the east of Building A.
- 8.5 The amended plans were notified to all property owners and occupiers within the locality and the submitters between 11 October 2017 and 25 October 2017.
- 8.6 6 further individual submissions, 1 petition with 7 signatures and 6 pro forma letter submissions were received which generally maintained the above concerns.
- 8.7 A summary of each issue, the Applicant's response and our response is at **attachment 10**.
- 8.8 The objections are not considered sufficient to warrant refusal of the Development Application.

9 External referrals

- 9.1 The Development Application was referred to the following external authorities for comment:

Authority	Comments
NSW Department of Industry - Water	<p>This application seeks to carry out works which are greater than 40 metres from the Second Ponds Creek watercourse. Therefore, this is not an Integrated Development Application under section 91(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>This agency has advised that this application is acceptable and General Terms of Approval have been provided for a dewatering of groundwater licence.</p>
Rural Fire Service	Acceptable subject to conditions.
Roads and Maritime Services	Acceptable.
Endeavour Energy	Acceptable subject to conditions.

Authority	Comments
NSW Police	Acceptable subject to conditions.
Sydney Water	Acceptable subject to conditions.
Transport for NSW	Acceptable. Concurrence is provided subject to conditions.

10 Internal referrals

- 10.1 The Development Application was referred to the internal sections of Council and is considered acceptable.

11 Conclusion

- 11.1 The proposed development has been assessed against all matters and is considered to be satisfactory. It is considered that the variations to the controls and likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is suitable for the proposed development subject to conditions.
- 11.2 The issues raised in the public submissions have been addressed by the Applicant, ameliorated through amendments to the plans, or are capable of being managed through conditions of consent. Therefore the issues raised do not warrant the refusal of this application.

12 Recommendation

1. Uphold the Applicant's written request to vary the height of buildings development standard in Clause 4.3 of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* using Clause 4.6 for the following reasons:
 - a. Adherence to the height standard is unnecessary in this instance as no adverse impacts will result from the variation to the Building Height map.
 - b. There are sufficient environmental planning grounds to justify varying the standard.
 - c. The proposal is in the public interest because it is consistent with the objectives of this standard and objectives for development in this zone.
 - d. The variation does not raise any matter of significance for State environmental planning.
 - e. The variation offers public benefits and creates an improved Precinct outcome.
2. Approve Development Application SPP-16-04467 for the reasons listed below, and subject to the conditions listed at **attachment 11**, as:
 - a. The proposal is in the public interest.
 - b. The site is considered suitable for the proposed development.
 - c. The requested clause 4.6 variation is acceptable.

3. The submitters and head petitioner be notified of the Planning Panel's decision.
4. The Applicant be notified of the Planning Panel's decision.

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