

# Assessment report to Sydney Central City Planning Panel

Panel reference: 2017SWC022

## Development Application

<b>DA number</b>	JRPP-16-04461	<b>Date of lodgement</b>	23 November 2016
<b>Applicant</b>	Toplace		
<b>Owner</b>	JKN West Pty Ltd		
<b>Proposed development</b>	Demolition of existing structures, construction of 11 residential flat buildings comprising 587 apartments and associated new public roads, stormwater drainage works and landscaping		
<b>Street address</b>	Lot 100 DP 1233054, 30 Advance Street, Schofields		
<b>Notification period</b>	12 December 2017 to 23 January 2018	<b>Number of submissions</b>	7 individual and 1 petition with 24 signatures

## Assessment

<b>Panel criteria</b>	Capital investment value (CIV) over \$20 million (DA has CIV of \$122.1 million).
Section 7, SEPP (State and Regional Development) 2011	

<b>Relevant section 4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>• Blacktown City Council Growth Centre Precincts Development Control Plan 2016</li> <li>• Central City District Plan 2018</li> <li>• Environmental Planning and Assessment Regulation 2000</li> </ul>
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<b>Report prepared by</b>	Holly Palmer, Senior Project Planner
<b>Report date</b>	15 November 2018
<b>Recommendation</b>	Approve, subject to the conditions listed in attachment 10, including deferred commencement conditions

## Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning map and height of building map extracts
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans
- 6 Assessment against planning controls
- 7 Applicant's Clause 4.6 request
- 8 Council's assessment of Clause 4.6 request
- 9 Summary of residents' concerns and Council response
- 10 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**

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- 1.1 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 for plant and equipment and some offsets for habitable space
  - the proposal is not consistent with the Riverstone Precinct Indicative Layout Plan for new public roads, but is more efficient and effective for drainage purposes
  - the proposed buildings do not satisfy the minimum required setback to the secondary street frontage, side and rear setbacks
  - the proposal seeks to remove all trees, which are scattered over the site
  - matters raised in public submissions which are considered in detail in Section 9 of this report. The objections are not considered sufficient to warrant the refusal of the Development Application.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent, including deferred commencement conditions.
- 1.3 The application is therefore considered to be satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 Assessment of the application has also been undertaken in line 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.
- 1.5 This report recommends that the Panel support the Clause 4.6 request to vary a development standard in this instance. The proposal provides a built form scale of part 5 and 6 storeys which is consistent with the scale anticipated by the Precinct Plan, with appropriate offsets for the habitable floor space encroachments.
- 1.6 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 10, including deferred commencement conditions relating to stormwater drainage matters.

## **2 Location**

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- 2.1 The site is located within the suburb of Schofields. It is within the Riverstone Precinct within the North West Growth Area as identified by State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP). The location of the site is shown at attachment 1.
- 2.2 The site is 140 m to 190 m to the north of the Transport Corridor Investigation Area and Schofields Road. Local shops are located to the north-west of the site along Railway Terrace. Schofields Railway Station, a Woolworths supermarket and future Local Centre are located to the south of the site.
- 2.3 The locality is in transition. It comprises a mix of rural-residential properties and properties under development. The range of redevelopment occurring in this locality includes dwelling houses, residential flat buildings and the future Local Centre. An aerial image of the site and surrounding area is at attachment 2.

- 2.4 The site and surrounding properties to the south of Advance Street are zoned R3 Medium Density Residential. The properties to the north of Advance Street are zoned R2 Low Density Residential, however are capable of redevelopment for multi dwelling housing development where a site has an area of over 1,500 m<sup>2</sup>. The southern portion of the site and land to the south and west (which comprises tributaries of Eastern Creek) are zoned SP2 Infrastructure Drainage.
- 2.5 The site and surrounding properties zoned R3 Medium Density Residential have a permitted building height of 16 m. The surrounding properties zoned R2 Low Density Residential to the north have a permitted building height of 9 m.

### **3 Site description**

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- 3.1 The 4.0466 ha site is irregular in shape. It slopes up to 11.5 m from the north-east to the south-west.
- 3.2 The site has a 54 m wide road frontage to Advance Street which is proposed to provide temporary vehicular and pedestrian access to the site until the greater road network to the east or west is constructed and available for public use.
- 3.3 The site contains an existing dwelling, associated sheds and a driveway off Advance Street. The south-eastern portion of the site consists of scattered trees and is identified as Shale Plains Woodland. These trees continue to the adjoining sites to the east and south. The remainder of the site is grassed.

### **4 Background**

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- 4.1 On 17 May 2010, the site was rezoned to R3 Medium Density Residential and SP2 Infrastructure Drainage under the Growth Centres SEPP. The zoning and height of building maps for the site and surrounds is at attachment 3.
- 4.2 This application was lodged on 23 December 2016.
- 4.3 On 3 October 2018, the Applicant submitted amended engineering plans which correlate with the levels and civil infrastructure design of the surrounding approved and proposed DAs. Subject to deferred commencement conditions, the proposal is capable of satisfying Council's requirements for water sensitive urban design measures and section 7.11 infrastructure and regional stormwater measures.
- 4.4 The Applicant is also endeavouring to negotiate access to the site via a new Indicative Layout Plan (ILP) road to the east out to Junction Road through the adjoining developer's land. If successful, this may negate the need for a temporary road to Advance Street, as currently proposed in this DA.

### **5 The proposal**

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- 5.1 The Development Application for residential flat buildings at 30 Advance Street, Schofields has been lodged by Toplace.
- 5.2 The Applicant proposes to construct 11 part 4-part 5 storey residential flat buildings comprising 587 apartments, 775 car parking spaces with 2 to 3 basement levels and associated new public roads, stormwater drainage works and landscaping.
- 5.3 The building heights to be roofline and rooftop plant and equipment range from 15.2 m to 20.26 m. The majority of the proposed development exceeds the maximum building height for this site, which is 16 m under the Growth Centres SEPP.
- 5.4 Details of the proposal, including a Clause 4.6 request to exceed the maximum building height, is at attachment 4 and a copy of the development plans is at attachment 5.

## **6 Assessment against planning controls**

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- 6.1 An assessment of the Development Application against section 4.15(1)(a) matters and relevant planning controls is at attachment 6.

## **7 Key issues**

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### **7.1 Proposed buildings exceed the maximum permitted building height**

- 7.1.1 The DA seeks approval for part-5 and part-6 storey buildings across the entire site with an overall height of 12.13 m to 20.26 m. The maximum height of buildings permitted on this site is 16 m and the Applicant seeks to exceed this height limit by up to 4.26 m or 26.6%, as measured from the ground levels created by the new roads.
- 7.1.2 The height exceedance relates to parts of the buildings including the roofline and parapets, rooftop plant and equipment and services to enable access to rooftop communal open space areas of Buildings E, F and H. Some height offsets for habitable room areas are also proposed.
- 7.1.3 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. A summary of the justification follows, and a copy of the request is at attachment 7.
- 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 development will facilitate the additional land area required, in excess of the SP2 Infrastructure zoned land, to meet the drainage basin requirements of the wider area on the land to the south. Without the creation of a residual lot to the south, the effective servicing of the precinct cannot occur. The development will facilitate this.
  - To enable an appropriate development of the site, the proposal provides 4 new allotments with amalgamated car parking basements to minimise disruption to new footpaths and reduce conflict with pedestrians.
  - The additional height to 7 of the 11 proposed new buildings will vary across the site and will not unreasonably affect adjoining properties or new residential units; all will still maintain or achieve a high level of solar access including the communal open space areas.
  - The varied height will provide architectural interest to this new precinct and will not be significantly higher than the 16 m height control given the size of the development and shared variation across the site.
  - The topography of the site, combined with the design of the basement levels which are amalgamated and shared between buildings, 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 existing residential properties adjoining Advance Street will not be detrimentally affected by shadow and adequate measures are in place to minimise overlooking from Buildings A, B and C.

- The location of roads around all buildings will ensure that adjoining properties to the east, west and south will not be unreasonably affected by shadow.
- The increased heights have been offset across the site and this flexible outcome results in a highly appropriate development that will achieve the desired characteristics of the emerging precinct without any detrimental effects.
- The proposed development is still 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 DA provides a maximum FSR of 1.40:1. By the flexible application of the height control this enables the site to achieve a reasonable development density although still significantly lower than the maximum FSR permitted.

7.1.4 Our assessment of the adequacy of the request to vary the development standard is at attachment 8. It identifies that there are sufficient environmental planning grounds to justify varying the development standard because the proposed design comprises stepped building forms which ensure that the changes in the landform are accommodated. This includes allowing for basement access for waste vehicles and amalgamated basement levels which service the needs of residents. In addition, the design maximises deep soil areas which are co-located with communal open space areas. The proposal promotes good design and amenity which creates a diverse and attractive neighbourhood based on strong urban design principles.

7.1.5 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 and, where appropriate, compensatory offsets have been provided.

## **7.2 The proposal is not consistent with the Riverstone Precinct Indicative Layout Plan (ILP)**

7.2.1 The Applicant seeks to vary the Riverstone Precinct ILP by:

- relocating part of an ILP road to the north to match the northern boundary of the subject site
- deleting 2 north-south roads, which increases the amount of developable area by 4,439 m<sup>2</sup> (19%)
- providing a temporary access driveway which connects to Advance Street. The purpose of this is to (if needed) provide temporary road access to the development until surrounding properties are redeveloped and public road access is formally made available. The Applicant does, however, anticipate this will not be needed as it anticipates gaining road access via the adjoining subdivision to the east.

7.2.2 Refer to attachment 4 for further details.

7.2.3 The Applicant argues that the proposed variations to the ILP are an improved outcome because:

- the development layout results in the grouping of buildings into 4 segments across the site, which interconnect a series of communal open space areas for the enjoyment of all residents and their visitors
- the basement levels for all buildings (except Building A) can be consolidated, which reduces the number of driveways



- it allows for heavily landscaped walkways and communal areas. These will soften the built form of the proposal and provide a highly usable open space network and interconnect buildings within each proposed lot
- it enables the proposed buildings to be orientated to address the new street frontages and to feature generous landscaped setbacks that soften the built form when viewed from the street.

- 7.2.4 We consider that the variations to the ILP, including the temporary access road, facilitate a suitable connection to the drainage basin and the intersection of new streets 1 and 2. The proposal fosters a road network which is logical and supports the progression of the orderly development of the site and surrounding precinct.
- 7.2.5 The proposal has been assessed by our Access and Transport Management section, which advises that the additional traffic generated by the proposed development can be accommodated within the existing and future road network capacity. It supports the proposed variations to the ILP and this proposed development.
- 7.2.6 Our Infrastructure Drainage Engineers also support the revised road pattern as it will facilitate better drainage of the site to the regional trunk drainage facility adjacent to the subject land.

### **7.3 The proposal does not satisfy the minimum required setbacks**

- 7.3.1 The Applicant seeks to vary the development controls so that private balconies and architectural elements have a setback of only 4.5 m. The Growth Centre Precincts Development Control Plan 2016 requires the secondary setback for corner lots, and the side and rear setbacks, to be a minimum of 6 m.
- 7.3.2 Although the full extent of the street setback is not met, the proposal offers an interesting and high quality streetscape presentation which is considered satisfactory on its merits. Given the huge scale of this proposal, the development should be considered holistically and we consider that the articulation of the buildings compensate for some building elements having a reduced setback.
- 7.3.3 The Apartment Design Guide does not include a numerical requirement for street setbacks, and directs that consideration 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 setbacks is not achieved, the proposal offers an interesting and high quality streetscape presentation which is considered satisfactory on its merits.

### **7.4 The proposal seeks to remove all trees and vegetation on the site**

- 7.4.1 The application is accompanied by an Arboricultural Development Impact Assessment Report by Birdtree Consultancy dated October 2016, which considers the removal of the trees on the site given their condition and impact of the proposed development.
- 7.4.2 There are a total of 91 trees on the site which are proposed to be removed for 1 or more of the following reasons:
- 83 trees are proposed to be removed to enable the construction of the roads and development. The proposed works comprise extensive earthworks and regrading to achieve the necessary road levels and stormwater infrastructure and the retention and protection of trees on the site is not possible



- 25 trees are recommended to be removed as they are dead, in poor and declining condition, or have significant and extensive decay and/or cavities within their trunks
  - 14 trees are located in the southern part of the site zoned SP2 Infrastructure Drainage, and are not capable of being retained due to the temporary above ground on-site detention system being constructed in this location.
- 7.4.3 There are 10 existing trees on the adjoining site to the south (Lot B DP 389673, 9 Schofields Road, Schofields) which are in close proximity to these proposed works. Appropriate tree protection measures will be imposed to retain these trees, until such time as development consent is issued for the removal of these trees and residential redevelopment. This will be conditioned in the consent.
- 7.4.4 Council's position is that any assessment of trees is to ensure that, as far as practicable, as many trees as possible within a development site are retained. However, as evidenced above, the condition of the trees and impact of the proposed development do not warrant their retention.
- 7.4.5 Overall, the proposal satisfies the objective of Clause 5.9 Preservation of trees or vegetation of the Growth Centres SEPP to "preserve the amenity of the area through the planting of new trees and other vegetation", by providing landscaping around the perimeter of the development and in the internal courtyard areas. It is also recommended a condition is imposed requiring at least 50% of the trees and vegetation as native species.

## **8 Issues raised by the public**

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- 8.1 The proposed development was notified to property owners and occupiers in the locality between 12 December 2017 and 23 January 2018. The Development Application was also advertised in the local newspapers, including the Blacktown City Sun and a sign was erected on the site.
- 8.2 We received 7 individual submissions and 1 petition with 24 signatures.
- 8.3 The submissions raised objection to the ability of the proposed road access to service the development, inadequate provision of public transport, and the impact on local school and other amenities. Concern was also raised with regard to loss of amenity to local residents, development which differs from the current land use, the size of the development and dust nuisance as a result of earthworks and construction.
- 8.4 Several properties located along Advance Street have raised concerns that the deletion of the Indicative Layout Plan road to the south of their properties will be a poor outcome. They claim the deletion will result in the loss of a buffer space and building separation, decreased privacy leading to devaluation of property prices, and reduced redevelopment potential of properties which will only have street frontage available to Advance Street. Concern is also raised about loss of enjoyment on the use of their land and privacy, impact on traffic volume and safety on Advance Street, necessary infrastructure is not in place and will worsen with large developments, noise from occupants of the apartments and air conditioning units, impacts on existing services such as water pressure and drainage as the site slopes downwards towards Advance Street and loss of pedestrian pathways.
- 8.5 Concern is raised regarding overshadowing, building height, inconsistency with the streetscape and surrounding residential homes, views to trees and rural aspect, balconies with glass balustrading are not suitable for visual privacy reasons and result in overlooking, noise disturbance from gates opening and closing, noise and light impacts from additional traffic, and interruption to services during construction.

- 8.6 A further submission was received objecting to the proposed dwelling density, height of buildings, number of storeys, overlooking and privacy, crowding and amenity, significant modifications to the ILP roads, the adaptable units are non-compliant, environmental impact due to the destruction of native trees and habitat, and further investigation is required to ensure significant indigenous archaeological artefacts are identified and protected. The submitter also objected due to an inappropriate apartment mix, no outdoor drying areas, monoculture of higher density dwellings, capacity of local amenities, risk of the Sydney property price bubble impacting on the commercial viability of developments and significant change to the character of the local area.
- 8.7 A summary of each issue and our response is at attachment 9.
- 8.8 The issues raised in the objections are not considered to be 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
Water NSW	Acceptable, subject to General Terms of Approval. Water NSW identified that the proposed development is deemed to be an aquifer interference activity requiring an authorisation under water management legislation.
Department of Industry – Water	Acceptable. The proposed development is classified as ‘integrated development’ under Section 91 of the Environmental Planning and Assessment Act 1979. The Department of Industry – Water has reviewed the proposal and advises that in line with the Water Management Act 2000 a controlled activity approval is not required.
Roads and Maritime Services	Acceptable, no conditions required.
Sydney Water	Acceptable, subject to conditions.

## 10 Internal referrals

- 10.1 The DA was referred to the internal sections of Council and is considered acceptable subject to conditions of consent, including deferred commencement conditions relating to stormwater drainage works. The Applicant is currently preparing amended plans and stormwater modelling and has advised that deferred commencement conditions 1.1 to 1.5 inclusive are capable of being satisfied.
- 10.2 Our City Architect identified some concerns during his initial evaluation. The Applicant submitted amended plans, and our City Architect is now satisfied that these show a significantly improved and quality development. Resolution of the concerns has been addressed by:
- reducing the presentation of a large blank wall on Buildings D and E
  - relocating bedroom windows where they are in close proximity to the driveway for Buildings D and E
  - providing a deep soil planting area between Buildings E and F to accommodate a large tree species to provide visual privacy between apartments

- deletion of Building A's loading zone/driveway entry and undercroft space as it is visually undesirable as viewed from street level
- increased 5<sup>th</sup> level setbacks in line with the Apartment Design Guide
- reducing the height of the driveway/basement roof structure where it is located in the street setback zone to a maximum of 1 m above ground level
- introducing more appropriate steps in building levels/podium levels to minimise the abrupt change in levels as viewed from the street
- increasing the distance from the kerb to garage door to improve the presentation of the podium and basement entry structures
- introducing a landscaped buffer zone provided between the driveway and the site's northern boundary
- breaking down the perceived bulk and scale of the buildings against the lower order development to the north of the site by improving the level of articulation of Buildings A, B and C
- improving the colour schemes and treatments to the external facades of the buildings.

## 11 Conclusion

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- 11.1 The proposed development has been assessed against all relevant matters 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 this scale of proposed development subject to conditions, including deferred commencement conditions.

## 12 Recommendation

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- 1) Uphold the Applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as the proposal still meets the height objectives of the zone and provides a positive development outcome.
- 2) Approve Development Application JRPP-16-04461 for the reasons listed below, and subject to the conditions listed in attachment 10, including deferred commencement conditions:
  - 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) Council officers notify the Applicant, submitters and head petitioner of the Panel's decision.

  
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