

Assessment against planning controls: section 4.15, summary assessment and variations to standards

1 Environmental Planning and Assessment Act 1979

1.1 Section 4.15 'Heads of Consideration'

| Heads of Consideration | Comment | Complies |
|--|---|--|
| a. The provisions of: (i) Any environmental planning instrument (EPI) | <p>The proposal is considered to be generally consistent with the relevant EPIs, including SREP No. 20 – Hawkesbury-Nepean River, SEPP (State and Regional Development) 2011, SEPP (Infrastructure) 2007, SEPP BASIX 2004, SEPP No. 55 – Remediation of Land, SEPP No. 65 – Design Quality of Residential Apartment Development and the 9 'design quality principles' of SEPP 65, Blacktown LEP 2015, Blacktown DCP 2015, the Central City District Plan 2018 and Blacktown Local Strategic Planning Statement 2020.</p> <p>The proposal is consistent with the Apartment Design Guide, with the exception of deep soil zones and visual privacy.</p> <p>The proposed development comprises permissible land uses within the B2 Local Centre zone and satisfies the zone objectives outlined in Blacktown LEP 2015.</p> | <p>Yes, subject to conditions and a Clause 4.6 variation to the height of buildings development standard.</p> <p>No, however, acceptable in this instance, as discussed below and in section 7 of the Assessment report.</p> <p>Satisfactory</p> |
| (ii) Any proposed instrument that is or has been the subject of public consultation under this Act | There are no relevant draft environmental planning instruments relevant to the consideration of the proposed development. | N/A |
| (iii) Any development control plan (DCP) | Blacktown Development Control Plan 2015 applies to the site. The proposed development is generally compliant with the applicable numeric controls established under the DCP. | Yes, subject to conditions |
| (iii a) Any Planning Agreement | A Water Sensitive Urban Design and Integrated Water Cycle Management Voluntary Planning Agreement was executed by Council on 22 July 2020. | Yes |
| (iv) The regulations | The Development Application is compliant with Clause 92 with regard to demolition. | Yes |
| b. The likely impacts of the development, including environmental impacts on both the | It is considered that the likely impacts of the development, including traffic, noise, parking and access, bulk and scale, stormwater, waste management and the like, have been satisfactorily addressed through appropriate conditions. | Yes, subject to conditions |

| Heads of Consideration | Comment | Complies |
|---|---|-----------------|
| natural and built environments, and social and economic impacts on the locality | In view of the above, it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts. | |
| c. The suitability of the site for the development | <p>The subject site is zoned B2 Local Centre with a 14 m building height limit. Retail premises and shop top housing are permissible uses on the site with development consent.</p> <p>The site is suited to the form of development proposed. The design solution is generally adequate and responds to the existing and desired future character of commercial and residential development and road linkages in the Rooty Hill local centre.</p> <p>The site is therefore considered suitable for the proposed development.</p> | Yes |
| d. Any submissions made in accordance with this Act, or the regulations | The application was exhibited for a period of 14 days and 1 submission was received. A summary of the submission, a response from the applicant and our assessment is at attachment 7. | Yes |
| e. The public interest | It is considered that the proposed development is in the public interest. The proposal provides additional retail and housing within an existing commercial centre, close to public transport and services. | Yes |

2 State Environmental Planning Policy (State and Regional Development) 2011

| Summary comment | Complies |
|---|-----------------|
| <p>The Sydney Central City Planning Panel (SCCPP) is the consent authority for all development with a capital investment value (CIV) of over \$20 million (being the CIV applicable for applications lodged but not determined prior to 1 March 2018 under Clause 23 transitional provisions of this SEPP).</p> <p>As this DA has a CIV of \$22,621,647, Council is responsible for the assessment of the DA and determination of the application is to be made by the SCCPP.</p> | Yes |

3 State Environmental Planning Policy (Infrastructure) 2007

| Summary comment | Complies |
|---|-----------------|
| The SEPP ensures that Roads and Maritime Services (RMS) is given the opportunity to comment on proposed development nominated as 'traffic generating development' under Schedule 3 of the SEPP. The development was referred to the RMS, which found the development acceptable subject to conditions of consent. | Yes |

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

| Summary comment | Complies |
|---|------------------------------------|
| <p>The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification.</p> <p>A BASIX Certificate for the proposal has been submitted in line with the provisions of this SEPP. Due to the series of amendments to the design of the proposal, conditions of consent are proposed for a new BASIX Certificate to be provided for the final approved plans and for the development to comply with the commitments of the new certificate.</p> | Yes, subject to proposed condition |

5 State Environmental Planning Policy No. 55 – Remediation of Land

| Summary comment | Complies |
|--|----------------------------|
| <p>SEPP 55 aims to 'provide a State-wide planning approach to the remediation of contaminated land'. Clause 7 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent.</p> <p>The site contains existing commercial buildings and vacant land. A Lead Materials Survey of the site by EI Australia concludes that lead based paints have not been identified within the existing structures at 47-67 Rooty Hill Road North.</p> <p>A Preliminary Site Investigation report prepared Eiaustralia, dated 13 November 2020, was submitted in support of the application.</p> <p>In its report Eiaustralia recommends:</p> <ul style="list-style-type: none"> • a Hazardous materials survey should be undertaken prior to the commencement of any demolition works, to identify any hazardous substances in the existing building fabrics • following demolition and removal of site structures and surface rubbish, an inspection should be performed by a qualified environmental consultant across the entire site, including former pavement and driveway access areas, to confirm there are no signs of contamination at the surface • any material being imported to the site should be validated as, should contamination be identified during the redevelopment, all work should cease, follow the unexpected finds protocol and a suitability qualified environmental consultant engaged to suitably address the issue • implementation of the unexpected finds protocol as outlined within the report should contaminated materials be detected, i.e asbestos in fill soils. <p>Eiaustralia concludes, based on its findings, that the potential for site contamination was low to medium and that the site can be made suitable for the proposed residential development in line with State Environmental Planning Policy No. 55 - Remediation of Land subject to recommendations in its report.</p> <p>These recommendations will be included as conditions of consent.</p> | Yes, subject to conditions |

6 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

| Summary comment | Complies |
|--|----------|
| <p>The aim of this plan is 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.</p> <p>The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Blacktown Local Environmental Plan 2015 (BLEP2015) and Blacktown Development Control Plan 2015 (BDCP).</p> | Yes |

7 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

| Summary comment |
|--|
| <p>SEPP 65 applies to the assessment of DAs for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.</p> <p>Clause 30 of SEPP 65 requires a consent authority to take into consideration:</p> <ul style="list-style-type: none"> • advice (if any) obtained from the design review panel • design quality of the residential flat development when evaluated in accordance with the design quality principles • the Apartment Design Guide (ADG). <p>We do not have a design review panel.</p> <p>A Design Verification Statement for the proposal dated 11 August 2020 has been provided by Simon Ochudzawa of JS Architects Pty Ltd, Registered Architect NSW No 6865.</p> <p>The tables below provide comments on our assessment of the 9 design quality principles and details where the numerical guidelines of the Apartment Design Guide are not fully complied with.</p> |

7.1 Design quality principles

| Principle | Control | Comment |
|---|--|---|
| The proposed development of residential flat buildings satisfies the 9 design quality principles. | | |
| 1. Context and neighbourhood character | <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.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> | <p>The site is zoned B2 Local Centre under Blacktown Local Environmental Plan (BLEP) 2015. It is located in a traditional strip shopping centre adjacent to a Low Density Residential R2 zone immediately to the west. Existing development in the locality is predominantly single and 2 storey commercial buildings and dwelling houses of different age, design and construction. A newer 4 storey building exists in Premier Lane to the south of the site.</p> <p>The design of the proposal is in keeping with the desired future character for the centre of medium density, commercial and mixed use development and will provide a sufficient setback and planting to the adjacent lower density residential area. The site is highly accessible to local services and facilities and public</p> |

| Principle | Control | Comment |
|--------------------------------|---|---|
| | | transport. The proposal consists of a good mix of studio, 1, 2 and 3 bedroom units and has made good provision for adaptable units. |
| 2. Built form and scale | <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>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> <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>The proposal achieves the scale of the desired future character for the street and proposed laneway, set by the Blacktown Local Environmental Plan 2015 (BLEP) and Blacktown Development Control Plan 2015 (BDCP). Appropriate setbacks from neighbouring properties to the south and west are provided.</p> <p>The overall building height, setbacks and floor to ceiling height are generally consistent with the planning controls, although the height exceeds the BLEP controls largely due to the need to provide rooftop communal open space for residents in the shopping centre setting, which is appropriate for shop top housing (see Clause 4.6 variation). It does not meet all the Apartment Design Guide standards, including deep soil and visual privacy.</p> <p>The built form defines the public domain and will improve the existing strip shopping centre and rear laneway environment.</p> |
| 3. Density | <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.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p> | <p>There is no floor space ratio control for the site under BLEP. The proposal consists of 2 buildings with ground level retail and 3 levels of 69 units, which is appropriate for this site and its context within the local centre, proximate to public transport.</p> <p>The proposal seeks to maximise the amount of development possible on the site, whilst providing land for a new public road.</p> |
| 4. Sustainability | <p>Good design combines positive environmental, social and economic outcomes.</p> <p>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> | <p>Deep soil provision is less than Apartment Design Guide standards.</p> <p>A BASIX Certificate is submitted nominating appropriate commitments for thermal comfort, water and energy efficiency.</p> <p>A Waste Management Plan has been submitted.</p> <p>Deep soil areas are to contain trees.</p> |
| 5. Landscape | <p>Good design recognises that together landscape and buildings operate as an</p> | <p>The applicant proposes to remove all trees from site except for a large native</p> |

| Principle | Control | Comment |
|--|---|---|
| | <p>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.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p> | <p>tree that Council has required to be retained in the proposed public footpath area of Premier Lane on the northern site boundary.</p> <p>Tree planting on site is difficult due to the location of on-site stormwater detention areas at ground level and the commercial/residential mixed use design.</p> <p>Tree planting occurs in deep soil areas on the site of Building B and street trees are provided in Rooty Hill Road North and the proposed Premier Lane. Planter boxes also provide shrubs on site above basements and on the roof.</p> |
| 6. Amenity | <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>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> | <p>Appropriate floor to ceiling heights are provided.</p> <p>Communal open space (largely on the roof) and private open space are provided to meet the recreation needs of the residents. A suitable level of visual privacy will be possible with the use of screens and planting. However, being located in a local shopping centre the acoustic privacy of some streetfront units will be less than in residential neighbourhoods.</p> <p>The site layout and facilities will be accessible and ample adaptable units are proposed in line with the objective of promoting accessibility and sustainability.</p> |
| 7. Safety | <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.</p> <p>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> | <p>The proposal has considered CPTED principles, providing casual surveillance from balconies and windows to the public domain. The use of access control and fencing will delineate private properties from the public domain.</p> <p>The applicant has provided a CPTED report and appropriate standard conditions are proposed.</p> |
| 8. Housing diversity and social interaction | <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> | <p>The proposal consists of a good mix of studio/1 (22%), 2 (48%) and 3 (30%) bedroom units and has made good provision for 18 (26%) adaptable units.</p> |

| Principle | Control | Comment |
|----------------------|---|---|
| | <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p> | <p>Storage spaces for each unit will be provided both within the unit and in the basements.</p> <p>A rooftop outdoor communal space will be provided for each building, which conditions of consent will require to be available only for the building residents, and not the retail shops or general public.</p> |
| 9. Aesthetics | <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 a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p> | <p>Building articulation and modulation is proposed by balconies on the street front, different coloured elements and materials and the different style of frontages appropriate for use as shopfronts on ground and units above.</p> <p>Street trees will soften the building facades on the streetscape and to low density housing to the west.</p> |

7.2 Compliance with Apartment Design Guide (ADG)

| ADG requirement | Proposal | Compliance |
|-----------------|----------|------------|
|-----------------|----------|------------|

We have assessed the application against the relevant provisions of the Apartment Design Guide and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other matters under the Apartment Design Guide.

Controls

Siting the Development

| | | | |
|-------------------------------|--|---|---|
| 3E Deep soil zones | <p>Minimum area = 7% of site area.</p> <p>Preferred area = 15%.</p> <p>If over 1,500 m² then minimum dimensions of 6 metres.</p> | <p>Lot 1 requires 194 m², but provides no deep soil area.</p> <p>Lot 2 requires 129 m², but provides 67 m² (1.45%)</p> <p>Despite being below the minimum requirement, this is acceptable in the circumstances of this shop top housing style and the large area of the site required to be dedicated for the new road (which also includes retention of an existing large tree surrounded by soft landscaping).</p> | <p>No, but considered acceptable as non-residential uses are located at the ground floor level.</p> |
| 3F Visual privacy | <p>Building Separation: refer to 2F above. Direct lines of sight should be avoided for windows and balconies across corners.</p> <p>Separation distances between buildings on the same site depending on the type of room as to reflect Figure 3F.2.</p> | <p>In Block A there are 15 apartments that have reduced visual privacy across internal corners as balconies will be less than 12 m apart.</p> <p>Privacy screens will be provided to the balconies of the affected units and the bedroom window of units 1-11, 2-11 & 3-11 to prevent any</p> | <p>No, but considered satisfactory as privacy measures are proposed to prevent any overlooking or privacy issues.</p> |

| ADG requirement | | Proposal | Compliance |
|-------------------------|--|---|---|
| | Direct lines of sight should be avoided for windows and balconies across corners. | overlooking or privacy issues arising. | |
| 3J-1 Car Parking | <p>Sites within 800 m of a railway station comply with the former RTA's Guide to Traffic Generating Development.</p> <p>Retail: Supermarkets, shops and restaurants (all spaces adequate for trucks): 1 space per 400 m² GFA 5 plus 1 space per 1,000 m² over 2,000 m².</p> <p>Residential: >20 units Metropolitan Sub-regional Centres: 0.6 spaces per 1 bed unit 0.9 spaces per 2 bed unit 1.4 spaces per 3 bed unit 1 space per 5 units (visitor parking). Note: Site is however not in a sub-regional centre but the standards are applied to this site.</p> | <p>Block A is required to provide 60 car parking spaces (44 residential, 8 visitor and 8 retail). Provided: 139 spaces (76 residential, 17 visitor and 46 retail). Surplus: 79 spaces</p> <p>Block B is required to provide 35 car parking spaces (24 residential, 5 visitor and 6 retail). Provided: 62 spaces (44 residential, 11 visitor and 7 retail). Surplus: 27 spaces</p> | No, but considered acceptable. Please refer to the Assessment report for details. |

8 Blacktown Local Environmental Plan 2015

Summary comment

We have assessed the DA against the relevant provisions and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other matters under BLEP 2015.

8.1 General development standards

| Development standard | | Complies |
|---|---|--------------------|
| Part 4 Principal development standards | | |
| Cl. 4.3 Height of buildings Maximum 14 m | The proposed building height is 18.4 m which exceeds the maximum allowable height by 4.4 m. Refer to attachment 8 for the applicant's justification and attachment 9 for the Clause 4.6 discussion. | No, but acceptable |
| Cl. 4.6 Exceptions to development standards | See above | Acceptable |

9 Blacktown Development Control Plan (BDCP) 2015

Summary comment

We have assessed the DA against the relevant provisions and the proposal is compliant with Blacktown Development Control Plan 2015.

10 Rooty Hill Town Centre Masterplan

Summary comment

The Rooty Hill Town Centre Masterplan applies to this site. It was adopted by Council in 2012 and sets out the vision for the renewal of the local centre. The Masterplan informed the preparation of BLEP 2015. The masterplan promotes higher density forms, a mixture of employment uses, continued improvements to the public domain, open spaces and green linkages.

Key matters relevant to the subject site located in Rooty Hill North are:

- Height of buildings is 14 metres (4 storeys).
- Buildings should reinforce the street alignment and urban character, improve pedestrian amenity and activity at street level, create an appropriate building scale for pedestrians and provide good growing conditions for street trees.
- Proposed new streets provide a connective public domain and improved accessibility throughout the Town Centre.
- Ground level retail uses with shop top housing along Rooty Hill Road North.
- Investigate ways to facilitate the redevelopment of land along Premier Lane.
- Enhance landscaping along Rooty Hill Road North.

The proposed development is consistent with the Masterplan's desired future character, scale and land uses and will assist in its implementation.

11 Central City District Plan 2018

| Summary comment | Complies |
|---|----------|
| <p>While the Act does not require consideration of District Plans in the assessment of development applications, the DA is consistent with the following overarching planning priorities of the Central City District Plan:</p> <p>Productivity</p> <ul style="list-style-type: none">• Driving the growth of the Central City• Delivering job targets in strategic and district centres• Improving access to a greater number of jobs and centres within 30 minutes. <p>Liveability</p> <ul style="list-style-type: none">• Improving access to jobs and services• Contributing to the provision of services to meet communities' changing needs.• Improving housing choice• Improving housing diversity and affordability• Creating great places. | Yes |

12 Blacktown Local Strategic Planning Statement (LSPS) 2020

| Summary comment | Complies |
|--|----------|
| The Blacktown Local Strategic Planning Statement (LSPS) outlines a planning vision for the City over the next 20 years to 2041. The LSPS contains 18 local planning priorities | Yes |

| Summary comment | Complies |
|--|----------|
| <p>based on themes of Infrastructure and collaboration, Liveability, Productivity, Sustainability and Implementation.</p> <p>The DA is consistent with the following priority:</p> <ul style="list-style-type: none"> • LPP5 Providing housing supply, choice and affordability with access to jobs, services and public transport. | |