

Assessment against planning controls

1 Environmental Planning and Assessment Act 1979

a. Section 79C 'Heads of Consideration'

The development satisfies the matters for consideration under Section 79C of the Act as detailed below.

Heads of Consideration 79C	Comment	Complies
<p>a. The provisions of :</p> <ul style="list-style-type: none"> (i) Any environmental planning instrument (EPI) (ii) Any development control plan (DCP) (i) The regulations 	<p>The proposal is considered to be consistent with the relevant EPIs, including the Growth Centres SEPP 2006, SEPP (Infrastructure) 2007 and SEPP 55 Remediation of Land.</p> <p>The proposed development is a permissible land use within the R2 Low Density Residential zone and satisfies the zone objectives outlined under the Growth Centres SEPP. The proposal is consistent with the Riverstone Precinct Plan and the specific development standards applying to the Scheduled Lands.</p> <p>The Growth Centre DCP applies to the site. The proposed development is compliant with the numerical controls established under the DCP, including the specific development controls applying to the Scheduled Lands. The development seeks a minor road pattern variation to the Riverstone Indicative Layout Plan, however, this is considered acceptable on its merits.</p> <p>The DA is consistent with the Paper Subdivisions Development Control Plan under Schedule 5 of the Environmental Planning and Assessment Act 1979.</p>	Yes
<p>b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality</p>	<p>It is considered that the likely impacts of the development, including traffic, access, design and stormwater management have been satisfactorily addressed.</p> <p>In view of the above it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.</p>	Yes
<p>c. The suitability of the site for the development</p>	<p>The subject site is zoned R2 Low Density Residential under the Growth Centres SEPP. The site is located within the former Riverstone Scheduled Lands and specific development controls are now in place to allow the orderly resubdivision of land. The proposal is consistent with these specific development controls.</p> <p>The site has an area and configuration that is suited to this form of development. The construction of new roads and infrastructure ensures the site is suitable for the development.</p>	Yes
<p>d. Any submissions made in accordance with this Act, or the regulations</p>	<p>One confidential submission was received from notification, which is dealt with in a confidential attachment for the Panel.</p>	Yes

Heads of Consideration 79C	Comment	Complies
e. The public interest	The proposal is considered to be in the public interest as it allows the orderly development of the Riverstone Scheduled Lands.	Yes

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

The Sydney Planning Panel (SPP) is the consent authority for all council related development with a capital investment value (CIV) of over \$5 million. As the DA has a CIV of \$12.06 million, Council is responsible for the assessment of the DA and determination of the application is to be made by the SPP.

3 State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45 of the SEPP also requires written notice to be given to the electricity supply authority for the area for development carried out within or immediately adjacent to an easement for electricity purposes. As the south west corner of the site contains an electricity easement, the electricity supply authority, Endeavour Energy, was provided with written notice of the application. Endeavour Energy advised that the development is acceptable, subject to conditions of consent.

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

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.

The applicant has submitted a Remediation Action Plan prepared by DLA Environmental Services Pty Ltd. The site has been identified as containing contamination and the RAP details all necessary actions to be undertaken at the site to render the site suitable for residential development in accordance with the *Residential A* criteria in the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 as amended 2013.

Suitable conditions will be imposed to require validation of the site as suitable for residential development without any limitations in accordance with the NEPM Guidelines by an Environmental Protection Authority (EPA) recognised geoscientist prior to the release of a subdivision certificate on the site.

5 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Appendix 4 of the SEPP, Alex Avenue and Riverstone Precinct Plan, applies to the site. The table below provides a summary assessment of the development standards established within the Growth Centres SEPP and the proposal's compliance with these standards. The development complies with the development standards contained within the SEPP.

Compliance with SEPP (Sydney Region Growth Centres) 2006 General controls within main body of the SEPP

Clause	Proposal	Complies
Part 5 Development controls – flood prone and major creek land		
Cl.19 Development on flood prone and major creeks land—additional heads of consideration	A portion of the northwest section of the site is identified on the Development Control Map as flood prone and major creeks land. Council's Engineers have reviewed the DA and consider it to be satisfactory with Clause 19 of the SEPP as the development will not adversely affect flood behaviour. The redevelopment is considered to improve the engineering design of the area.	Yes
Cl. 20 Development on and near certain land at Riverstone West	N/A	N/A

Compliance with SEPP (Sydney Region Growth Centres) 2006 Appendix 4 - Alex Avenue and Riverstone Precinct Plan 2010

Clause	Proposal	Complies
Part 2 Permitted or prohibited development		
2.1 Zoning & Land Use Tables	R2 – Low Density Residential and RE1 – Public Recreation. Subdivision and roads are permissible with consent.	Yes
Part 4 Principal development standards		
4.1AB Cl. (9) - Min. lot size for dwelling in R2 zone ➤ Min. 300 sqm	Lots sizes range between 300 sqm and 1,236 sqm.	Yes
4.1B Residential Density ➤ Min. 15 dwellings / ha	Site area: 9.9 ha Required: 148 dwellings/ lots Proposed: 184 lots	Yes
Part 5 Miscellaneous provisions		
5.9 Preservation of trees or vegetation	Trees are proposed to be removed where cut and fill is proposed. However, the site is biodiversity certified and suitable conditions for street tree planting will be imposed. Where no cut or fill is proposed, trees are to be retained.	Yes as land is biodiversity certified

5.10 Heritage conservation	<p>The site does not contain European heritage items.</p> <p>An Aboriginal Archaeological Due Diligence Assessment has been submitted prepared by AECOM for Stages A1 and A3. The report concluded that there are no aboriginal heritage constraints identified in the project area and no further heritage works or reporting are considered warranted.</p>	Yes
Part 6 Additional local provisions		
6.1 Public utility infrastructure	<p>Letters have been provided from:</p> <ul style="list-style-type: none"> ➤ Endeavour Energy identifying a supply offer, therefore services are available. ➤ Sydney Water confirming that the supply of trunk water and the disposal and management of wastewater for future residential development within the Riverstone Precinct is now available. 	Yes
6.4 & 6.5 Native vegetation	No Native Vegetation Protection (NVP) area and Existing Native Vegetation (ENV) have been identified on site.	N/A
6.8 Development on Riverstone Scheduled Lands <ul style="list-style-type: none"> ➤ Consent must not be granted for the subdivision of any Riverstone Scheduled Lands unless every lot created by the subdivision has a frontage directly onto a public road and a maximum depth of 35 m. 	<p>Every lot has frontage to a public road. The proposed lots depths are between 24.57 m and 32.4 m, with the exception of residue Lot 118 which has a depth of 48 m and contains an existing dwelling.</p>	Yes

Some specific clauses are detailed below.

a. Clause 2.3 Zone objectives and land use table

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The subject site is zoned R2 Low Density Residential and RE1 Public Recreation under the Growth Centres SEPP. Subdivision is permissible in the R2 zone with development consent.

b. Clause 6.1 Public utility infrastructure

The consent authority must not grant development consent to development on land to which the Precinct Plan applies unless it is satisfied that any public utility infrastructure that is

essential for the proposed development is available, or that adequate arrangements have been made to make that infrastructure available when required.

Council has received confirmation from Sydney Water and Endeavour Energy that drinking water, sewerage and electricity are available in the Riverstone Precinct. In addition, suitable conditions will be imposed requiring a Section 73 Certificate and a Notification of Arrangements prior to the release of an Subdivision Certificate.

6 Draft West Central District Plan

Whilst the Environmental Planning and Assessment Act 1979 does not require consideration of District Plans in the assessment of development applications, an assessment of the Draft West Central District Plan has been undertaken. Outlined below is where the development application is consistent with the overarching priorities outlined in the Draft West Central District Plan:

Liveability

- Improving housing choice
- Improving housing diversity and affordability
- Creating great places.

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

A consent authority must take into consideration the general planning considerations set out in Clause 5 of SREP 20 and the specific planning policies and recommended strategies in Clause 6 of SREP 20. The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Growth Centres SEPP. The development complies with the development standards and controls established within the Growth Centres SEPP, to enable the orderly development of the site. Therefore, the proposal is considered to satisfy Clause 4 of SREP 20.

8 Blacktown City Council Growth Centre Precincts Development Control Plan 2010 (Growth Centre DCP)

The Growth Centre DCP applies to the site. The table below outlines the proposal's compliance with the controls established in the DCP.

Compliance with BCC Growth Centre Precincts DCP 2010		
Part 2.0 – Precinct Planning Outcomes (from main body of DCP)		
Element/Control	Proposal	Complies
2.2 The Indicative Layout Plan ➤ DA is to be generally in accordance with ILP	The DA is generally in accordance with the ILP, with the exception of a minor road pattern variation which is addressed in the main report.	No but only a minor departure
2.3 Subdivision site analysis - The following clauses must be addressed:		
2.3.1 Flooding and water cycle management	A small part of the site is identified as being flood affected. Council's Engineering and Drainage Sections have reviewed the DA and have provided suitable conditions to ensure that the site is	Yes

	appropriately drained.	
2.3.2 Salinity and soil management <ul style="list-style-type: none"> ➤ Land within the Areas of potential salinity and soil aggressivity risk figure, must be accompanied by a salinity report. A qualified person is to certify the project upon completion of the works. ➤ The Salinity Management Plan is to be in accordance with Appendix C of the DCP. All works are to comply with the plan. 	A Geotechnical Investigation and advise report was prepared for the development by Pells Sullivan Meynink. The report provides recommendations for site classification, subdivision earthworks and new pavement thickness and design. Conditions will be imposed to ensure compliance with the Plan.	Yes, subject to conditions of consent.
2.3.3 Aboriginal and European heritage <ul style="list-style-type: none"> ➤ Are there any areas of Aboriginal heritage value within or adjoining the site, and is the site identified on the European cultural heritage sites figure? If so, a report is required from a qualified consultant. 	<p>The site does not contain European heritage items.</p> <p>An Aboriginal Archaeological Due Diligence Assessment has been submitted prepared by AECOM for Stages A1 and A3. The report concluded that there are no aboriginal heritage constraints identified in the project area and no further heritage works or reporting are considered warranted. Conditions will be imposed to ensure appropriate measures are undertaken in the event of a discovery.</p>	Yes, subject to conditions of consent.
2.3.4 Native vegetation and ecology <ul style="list-style-type: none"> ➤ Native trees/vegetation to be retained where possible. ➤ Is the site identified on the Riparian Protection Area figure. If so, native vegetation to be managed in accordance with Appendix B of the DCP. ➤ Does the site adjoin land zoned E2. ➤ A landscape plan is to be submitted with the DA. Trees to be selected from Appendix D of the DCP. 	<p>The site is not in a riparian area and does not directly adjoin E2 zoned land.</p> <p>The site is 'certified land' under the Growth Centres Biodiversity Certification.</p>	Yes
2.3.5 Bushfire hazard management <ul style="list-style-type: none"> ➤ Development is to be consistent with Planning for Bushfire Protection 2006 	The site adjoins a bush fire risk area. The DA is classified as 'Integrated Development' under Section 91 of the Act. The DA was referred to the NSW Rural Fire Service who provided a bushfire safety authority for the development.	Yes
2.3.6 Site contamination <ul style="list-style-type: none"> ➤ All subdivision DA's to be accompanied by a Stage 1 Preliminary Site Investigation. ➤ Where required a Stage 2 investigation is to be carried out. 	<p>The applicant has submitted a Remediation Action Plan prepared by DLA Environmental Services Pty Ltd. The site has been identified as containing contamination and the RAP details all necessary actions to be undertaken at the site to render the site suitable for residential development in accordance with the <i>Residential A</i> criteria in the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 as amended 2013.</p> <p>Suitable conditions will be imposed to require validation of the site as suitable for residential</p>	Yes subject to conditions of consent.

	development without any limitations in accordance with the NEPM Guidelines 2013 by an Environmental Protection Authority (EPA) recognised geoscientist prior to the release of a subdivision certificate on the site.	
2.3.7 Odour assessment and control ➤ Is the site adjacent to odour generating activities and is a buffer or additional supporting information required.	The site is not located adjacent to odour generating activities. Additional information is therefore not warranted.	N/A
Part 3.0 – Neighbourhood and subdivision design (from main body of DCP)		
Element/Control	Proposal	Complies
3.1 Residential Density and Subdivision		
3.1.1 Residential density ➤ Minimum residential density = 15 dwellings per hectare ➤ In accordance with Table 3.1 , allotments to allow for a mix of dwellings.	The development satisfies the minimum density required, providing 184 lots. The minimum density required is 148 dwellings/ lots. A range of lots are provided, between 300 sqm and 1,246 sqm. The lot widths are between 10 m and 19 m.	Yes
3.1.2 Block and lot layout		
Blocks ➤ Legible and permeable street hierarchy ➤ Good pedestrian connectivity ➤ Street blocks generally a max. 250m long and 70m deep	The proposed subdivision layout results in an effective and efficient street pattern with good pedestrian connectivity. The subdivision layout is consistent with the Riverstone Indicative Layout Plan, with a minor exception. The street blocks do not exceed 250 m and the depth of each block is generally around 60 m. A 60 m deep street block would mean 30 m deep blocks. Lot depths are between 25 m and 30 m.	Yes
Lots ➤ Min. lot size as per Table 3.2 = 300sqm given no dwelling design has been included, or 250sqm where building envelope plan is provided (see also controls under Part 4 of the relevant SEPP Appendix/Precinct Plan) ➤ Min. lot frontages as per Table 3.3 = 9m for front loaded lots (or 4.5m if there were rear loaded lots) ➤ A range of lots must be provided. ➤ No more than 40% of the lots may be the same lot type. ➤ For lots less than 9m, the total frontage is not to exceed 20% of the block length. ➤ Lots should be rectangular or large enough to accommodate a dwelling. ➤ Lots should front any RE1 or SP2 land. ➤ Optimal lot orientation is east-west or north-south.	All lots are between 300 sqm and 1,294 sqm. All lots are at least 10 m wide. A range of lot sizes and widths have been provided. Lots are regular in shape.	Yes

Zero lot lines <ul style="list-style-type: none"> ➤ Zero lot lines are to be determined by topography and should be on the low side. ➤ Plans to show the 900mm easement for single storey dwellings or 1200mm for 2 storey zero walls. ➤ Relevant 88B to be imposed on any consent. 	No zero lot lines are proposed, however, standard conditions to be imposed identifying that if a zero lot is proposed, an easement is required.	Yes subject to condition of consent.
Subdivision of shallow lots <ul style="list-style-type: none"> ➤ Lots 14-18m deep should be located where overshadowing and privacy can be addressed. 	Proposed lot depths are between 24 m and 32 m.	N/A
Battle-axe lots <ul style="list-style-type: none"> ➤ As per Figure 3.5 	There are no battle-axe allotments proposed.	N/A
Corner lots <ul style="list-style-type: none"> ➤ Must be designed so dwellings can address both street frontages. ➤ Plans to show proposed or existing substations, kiosks, sewer man holes and/or vents affecting corner lots. 	Corner lots have been appropriately designed. A condition will be imposed requiring that CC plans to show existing substations, kiosks, sewer man holes and/or vents affecting corner lots	Yes subject to condition of consent.
3.2 Subdivision Approval Process		
<ul style="list-style-type: none"> ➤ Lots <300 sqm to be accompanied by a Building Envelope Plan (BEP). 	No lots less than 300 sqm are proposed.	Yes
3.3 Construction Environmental Management		
<ul style="list-style-type: none"> ➤ A Construction Environmental Management Plan is required pre-CC. 	A condition will be imposed requiring that a construction environmental management plan be submitted pre-CC.	Yes subject to condition of consent.
3.4 Movement Network		
3.4.1 Street layout and design <ul style="list-style-type: none"> ➤ Streets to meet engineering guidelines. ➤ Road pattern variations are to be separately approved. ➤ Affected property owners are to be notified of road pattern variations. ➤ Minimum distance from an access road to a collector road if on the same side of the road is 50m, if staggered and on opposite sides of the road then 40m. The minimum distance between collector roads is 100m. ➤ Street tree required as per Appendix D of the DCP. ➤ Street trees to consider access, garbage trucks, traffic safety, etc. ➤ Signage, street furniture and lighting to be agreed by Council. 	Access to all lots will be via newly constructed public roads, in accordance with engineering requirements. Suitable conditions will be imposed to ensure that the subdivision/road construction meets engineering guidelines. Street tree planting, black powder-coated street poles, etc. will also be addressed as a condition of consent.	Yes subject to conditions of consent.

➤ Temporary roads/access (e.g. for garbage collections, etc.) are to remain in operation only until such time as the road network has been developed.		
3.4.2 Laneways ➤ Laneways to be consistent with Figure 3.14 .	There are no proposed laneways.	N/A
3.4.3 Shared driveways ➤ Shared driveways to be consistent with Figure 3.17 .	There are no shared driveways proposed.	N/A
3.4.4 Access to arterial and sub-arterial roads ➤ Direct access to arterial roads and sub-arterial roads is prohibited.	Access is proposed to/from collector and local roads only.	Yes
Other matters		
Retaining walls	No retaining walls are proposed by the development. The applicant has confirmed this at enclosure 26A.	N/A
Cut and fill	A cut/fill plan has been submitted with the DA. Cut proposed is 41,360 cubic metres and fill proposed is 18,110 cubic metres. A standard condition should be imposed to ensure excess cut is appropriately disposed.	Complies
Waste management plan	A Waste Management Plan has been submitted with the DA. Standard conditions will be imposed to ensure compliance with the plan.	Complies
Schedule 2 Riverstone Precinct		
Section 4 Scheduled Lands Residential Controls		
Controls	Proposal	Complies
4.3 Residential Development		
1. Development patterns within the Scheduled Lands are to be consistent with the road pattern as shown on the Indicative Layout Plan in Part 2 of this DCP.	The development pattern is generally consistent with the development pattern established by the Riverstone Indicative Layout Plan.	Yes
2. Where an alternative subdivision pattern is proposed, the applicant is required to demonstrate to Council, as part of the development application, that: • The ability to supply water, sewer and underground electricity services to the property and to adjoining residential properties will not be adversely affected. • Appropriate arrangements are able to be made for the drainage of the land and adjoining lands. • Access to the land and to adjoining lands by public roads will not be prevented. • The resulting street pattern will contribute to the safe and efficient movement of pedestrians, cyclists	The minor road pattern variation, which is discussed in the main report, will not affect the delivery of services, drainage or native vegetation.	No but change is very minor

and vehicles. • The proposal will not result in clearing of additional native vegetation, when compared to the extent of clearing that would be required for development that complies with the preferred subdivision pattern in this DCP. • The agreement of all landowners affected by the alternative subdivision pattern has been obtained.		
3. Residential subdivision in the Scheduled Lands is to comply with the requirements of Part 2 and 3 of this DCP.	The proposal is consistent with the ILP and the requirement of Parts 2 and 3 of the DCP as outlined above.	Yes
4. As part of the approval of development applications for subdivision in the Scheduled Lands, Council may require the dedication of land for the creation of public roads, or the construction of roads and subsequent dedication to Council, to ensure that development meets the objectives of this DCP.	New local roads are to be dedicated to Council.	Yes
5. Development of residential buildings in the Scheduled Lands is to comply with the objectives and controls relevant to that development in Part 4 of this DCP.	N/A as DA does not seek approval for residential buildings.	N/A
6. Development of a single allotment (being a lot that existed as a separate title prior to the date of adoption of this DCP) for residential purposes is not permitted except in special circumstances as outlined in clause 4.5 . Where a single lot development is proposed, the applicant will be required to demonstrate that it does not impact adversely on the road layout, ability to supply essential services to residential land, or the amenity or streetscape of the area.	N/A as DA is for subdivision only.	N/A
7. Development of a single allotment (being a lot that existed as a separate title prior to the date of adoption of this DCP) is not permitted in areas that are shown on the Minimum Residential Density Map that forms part of the Riverstone Precinct Plan as	N/A as DA is for subdivision and meets the minimum density requirements.	N/A

having a minimum residential density of 20 dwellings per hectare or 25 dwellings per hectare.		
8. The minimum frontage width for residential development on corner lots is 15m (development of an existing single lot on a street corner will therefore not be possible anywhere in the scheduled lands without re-subdivision or amalgamation).	3 lots within Stage A1 do not meet the minimum width of 15 m. These are lots 138, 159 and 182, having widths of 14.7 m, 12.19 m and 12.19 m. The frontages of these lots are considered acceptable as the lots are the amalgamation of lots adjoining an existing laneway, which is an existing constraint on the site. All 3 lots are able to be developed with appropriate setbacks.	No but variation is acceptable in the unique circumstances of the existing configuration of the Scheduled Land allotments
9. Subdivision of, and the erection of dwellings on, two to four adjoining lots is to consider the guidelines in clause 6.5 .	N/A	N/A
10. Development of five or more adjoining lots will be assessed by Council with consideration to whether: <ul style="list-style-type: none"> • the proposed development will contribute to the variety of housing available in the area, • the development will contribute positively to the creation of an attractive streetscape, • The design of building facades, including scale, articulation, colours and materials, complements the character of the area, • the proposal will result in a safe, efficient and legible street network. 	The DA seeks approval for the resubdivision of more than 5 lots. All stages of the development incorporate a mix of lots size and will contribute to variety of housing available in the area.	Yes
11. Existing trees within road verges and dwelling front setbacks are to be retained except where clearing is required for paths and driveways, and where trees within close proximity to proposed buildings would pose a risk of damage to the building. Plans of the proposed development submitted at the development application stage are to identify trees to be retained and trees to be removed.	A landscape plan is to be submitted prior to the issues of Construction Certificate for endorsement by Council's Street Tree section. Appropriate conditions of consent will be imposed.	Yes
12. Battleaxe lots are not appropriate except in circumstances where special edge conditions (as identified in Clause 4-5 necessitate alternative subdivision layouts.	No battle-axe lots are proposed.	Yes

4.4 New Local Roads

1. New local roads to be constructed in the Scheduled Lands are to be designed in accordance with Figure 4-2.	The road design is consistent with the controls of Figure 4-2 and 3.2.3 of the DCP	
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