

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)	The proposal is generally consistent with the relevant EPIs, including SEPP Sydney Region Growth Centres 2006, SEPP No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide, SEPP Infrastructure 2007, SEPP BASIX 2004, SEPP No. 55 – Remediation of Land and SEPP (State and Regional Development) 2011.	Yes
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	<p>In May 2017 the Department of Planning, Industry and Environment (DPIE) exhibited a draft amendment to the Growth Centres SEPP 2006, referred to as the 'North West Draft Exhibition Package.' This exhibition coincided 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 do not 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).</p> <p>A key outcome sought by DPIE is the establishment of minimum and maximum densities for all residential areas that have been rezoned under the SEPP (i.e. density bands). Currently the planning controls nominate only a minimum density. This proposal will have a significant influence on the ultimate development capacity (i.e. yield) of the precincts.</p> <p>Following exhibition in mid-2017 and the receipt of many objections, DPIE is still considering this matter and no final decision has been made. The timing of adoption is uncertain at this stage, as is the content of any amendments. There is no guarantee the exhibited controls will be adopted and made law.</p> <p>This site is within the Area 20 Precinct and the density band demonstrated in the Exhibition Package is 55 to 100 dwellings per hectare, which equates to a maximum of 39 dwellings on this site. The current minimum dwelling density requirement for the site is 25 dwellings per hectare. The proposed dwelling density under this DA is 203 dwellings per hectare, which is more than double the proposed new maximum 100 dwellings per hectare. Although the proposal is inconsistent with the maximum dwelling density as exhibited, there is no certainty or imminence to these amendments coming into effect, and therefore this is not a matter for consideration in this application.</p> <p>The draft Amendment proposes a minimum lot size of 1,500 m² for residential flat buildings in the R3 zone, with which the</p>	The draft amendment is not certain or imminent and cannot therefore be given any substantive weight.

Heads of Consideration	Comment	Complies
	<p>proposal complies.</p> <p>The Sydney Planning Panel has dealt with other DAs in the North West Growth Area that also do not comply with the exhibited (but not applicable) density bands. To be consistent, this DA should be dealt with in a similar way.</p>	
(iii) Any development control plan (DCP)	The Blacktown City Council Growth Centre Precincts Development Control Plan 2018 applies to the site. The proposed development is generally compliant with the applicable numeric controls established under the DCP. Any variation will be discussed in detail below but the level of compliance is considered acceptable subject to proposed conditions of consent.	Yes
(iii a) Any Planning Agreement	There are no applicable planning agreements.	N/A
(iv) The regulations	There are no regulations to be considered.	N/A
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>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.</p> <p>It is considered that the proposed development will not have any unfavourable social, economic or environmental impacts on the locality.</p>	Yes
c. The suitability of the site for the development	<p>The subject site is zoned R3 Medium Density Residential with a 26 m building height limit, with which the proposal complies. Residential flat buildings are a permissible form of development on the site with development consent.</p> <p>The site is suited to the form of development proposed. The design solution is very good and responds to the existing and desired future character of residential development and road linkages in the Area 20 Precinct at Rouse Hill.</p> <p>The site is therefore suitable for the proposed development.</p>	Yes
d. Any submissions made in accordance with this Act, or the regulations	One public submission was received in support of the proposal.	Yes
e. The public interest	It is considered that no adverse matters relating to the public interest arise from the proposal. Conditions of consent are required to ensure that the development achieves smart contemporary design which is in the public interest. The proposal provides additional housing close to public transport and proposed commercial services.	Yes

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

Summary comment	Complies
The Sydney Planning Panel (SPP) is the consent authority for all development with a capital investment value (CIV) of over \$30 million. The proposal has a CIV of \$64,272,877.	Yes

3 State Environmental Planning Policy (Infrastructure) 2007

Summary comment	Complies
The SEPP ensures that Endeavour Energy is given the opportunity to comment on development close to its transmission easement (fronting Cudgegong Road, adjoining Lot 1 of the subject site). We referred the application to Endeavour Energy and conditions of consent will ensure the requirements of Endeavour Energy are included.	Yes subject to conditions.

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 was submitted with the originally-submitted design in line with the provisions of the SEPP. The BASIX Certificate demonstrates that the proposal complies with the relevant sustainability targets and will implement those measures required by the certificate. The BASIX Certificate is required to be amended for consistency with the current plans, which will be conditioned in any consent granted.</p>	Yes

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>A Contamination, Salinity and Geotechnical Assessment Report prepared by GeoEnviro Consultancy Pty Ltd (June 2016) concludes that the site can be made suitable for residential use and includes recommendations for the management of these issues. Conditions are proposed to deal with these issues.</p>	Yes

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

Summary comment	Complies
The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Growth Centres SEPP.	Yes

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

Summary comment

SEPP 65 applies to the assessment of Development Applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.

Clause 30 of SEPP 65 requires a consent authority to take into consideration:

- 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).

Council does not have a design review panel.

The tables below provide comments on our assessment of the 9 design quality principles.

7.1 Design quality principles

Principle	Control	Comment
7.1.1 Design quality principles The development 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 area, zoned R3 Medium Density Residential, is one in transition. It is located adjacent to the future Tallawong local centre with the newly operational Tallawong Metro Station 320 m from the site. The future character of the locality will be predominantly medium and high density housing and commercial development. The site is highly accessible to future planned local services and facilities and existing public transport.</p> <p>The high density scale of the proposal, and contemporary design and landscaping, is in keeping with the desired future character for the Area 20 Precinct in this location.</p> <p>The proposal consists of a reasonable mix of 1, 2 and 3 bedroom units and has made provision for liveable units as required by the Apartment Design Guide.</p>
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</p>	<p>The proposal achieves the scale of the desired future character for the street, set by SEPP (Sydney Region Growth Centres) 2006 and the Blacktown City Council Growth Centre Precincts Development Control Plan (DCP) 2018. Appropriate setbacks from neighbouring properties to the north, south, east and west are provided to enable their redevelopment.</p> <p>The overall building height, setbacks, floor space ratio and floor to ceiling</p>

Principle	Control	Comment
	streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	heights are consistent with the planning controls. Building facades are longer than desirable but are offset by the communal open space provision in between the buildings, as well as the proposed large trees and extensive landscaping to reduce visual impact. Our City Architect considers the proposed building façade to be acceptable.
3. Density	Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. 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.	The density of buildings on the site is acceptable as the proposal complies with the controls and minimum density requirements of the Growth Centres SEPP.
4. Sustainability	Good design combines positive environmental, social and economic outcomes. 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.	Solar access and cross ventilation meet ADG criteria. The deep soil area and building separation have been increased by amended plans to an acceptable level within which more large trees can be accommodated to meet the intent of deep soil areas. Trees are provided on the site perimeter, utilising the additional space in the public footpath areas. A BASIX Certificate was submitted initially, nominating appropriate commitments for thermal comfort, water and energy efficiency. It should be noted that the BASIX Certificate will have to be revised for consistency with the current amended plans. A Waste Management Plan has been submitted.
5. Landscape	Good design recognises that together landscape and buildings operate as an 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. 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	The applicant proposes to remove all trees from the site in accordance with an existing subdivision approval. No natural features can be retained due to the 2 basement levels proposed across most of the site. The proposed landscape scheme utilises a range of indigenous and exotic plants and provides large canopy trees. Internal site deep soil areas will enable shade trees and a range of spaces for residents across the site. Communal open space areas include a range of soft and hard surfaces, seating and landscaped areas, BBQs and children's play area.

Principle	Control	Comment
	<p>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>Landscaping is used to provide privacy for ground floor dwellings.</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>The proposal meets the ADG standards for internal amenity for room sizes and layouts, solar access, ventilation and access. Storage spaces for each unit are provided both within the unit and in the basement.</p> <p>Communal open space and private open space are provided to meet the recreation needs of the residents. Common rooms are provided for resident use. A suitable level of visual privacy is possible with the use of screens and planting.</p> <p>The site layout and facilities are accessible and ample liveable/adaptable units are proposed in accordance 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 architect's design verification statement states that Safer by Design principles are adapted into the development.</p> <p>Casual surveillance is provided from balconies and windows to the public domain. Street entries are provided for many ground floor apartments.</p> <p>Conditions are proposed to ensure low fencing and landscaping on the boundaries of the site.</p> <p>Appropriate standard conditions are proposed for provision of and compliance with the CPTED assessment.</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>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>The 239 units consist of 28 x 1 (11.7%), 178 x 2 (74.5%) and 33 x 3 (13.8%) bedroom apartments. The mix will support a range of households, including single people and families with children.</p> <p>48 (20%) liveable units are provided as required and identified on plans, including 24 (10%) adaptable units, for which resident disabled parking spaces are provided (subject to proposed conditions).</p> <p>The units are capable of being fitted out to accommodate a range of lifestyle needs.</p> <p>A range of outdoor communal open</p>

Principle	Control	Comment
		spaces are provided including children's playground and BBQs, and communal rooms.
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>A variety of building elements and materials will be used. Balconies on the street front, utilisation of different light and dark coloured elements and materials, and solid and open elements, provide building articulation and modulation.</p> <p>The proposed street trees, and perimeter and internal site planting, to be provided will reduce the bulk impact of the 26 m high, long building facades on the streetscape and provide for pedestrian amenity.</p>

7.2 Compliance with Apartment Design Guide (ADG)

ADG requirement	Proposal	Compliance
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We have assessed the revised application against the relevant provisions of the ADG and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other matters under the ADG.

Controls

2F Building Separation	Up to 4 storeys/12 metres: 12 metres between habitable rooms/balconies 9 metres between habitable rooms/balconies and non-habitable rooms 6 metres between non-habitable rooms	For first 4 storeys: - separation is minimum 12 metres. - Internal unit separation across building corners is satisfactory.	Yes
	5 to 8 storeys/up to 25 metres: 18 metres between habitable rooms/balconies 13 metres between habitable rooms/balconies and non-habitable rooms 9 metres between non-habitable rooms	For the 5 th to 8 th floors: Buildings A to B - 13.6 m separation is provided between habitable rooms/balconies and blank walls - 18 m separation is provided between habitable rooms/balconies. Buildings B to C - 14.4 m separation is provided between habitable rooms/balconies and blank walls - 18 m separation is provided between habitable rooms/balconies. Buildings C to D	No, but acceptable subject to condition 3.1.3 intended for privacy.

ADG requirement		Proposal	Compliance
		<p>- 13.6 m separation is provided between habitable rooms/balconies and blank walls</p> <p>- 18 m separation is provided between habitable rooms/balconies.</p> <p>It should be noted that blank walls and high windows are proposed to assist with privacy and this is consistent with the ADG. However, the drawings are unclear (ie. showing normal sized windows when it is indicated as blank walls – see Unit B46 as an example).</p> <p>To ensure privacy, the western elevation of the bedroom windows to Units A50, A54, A58, A62, B50, B54, B58, C46, C50, C54, C58 shall either be a highlight window with a minimum 1.6 m sill height from the floor level, or a blank wall.</p>	

Configuration

4L Ground floor apartments	<p>Maximise street frontage activity. Direct street access to ground floor apartments.</p> <p>Ground floor apartments to deliver amenity and safety for residents.</p>	<p>Most ground level units have direct access through courtyards.</p> <p>1.8 metre high fencing is not appropriate. Front fencing on all road frontages is to be visually permeable and no more than 1 metre high. Fencing around ground level private open space and balcony areas is to be open above 1 metre in height and no more than 1.5 metres high.</p>	<p>Yes</p> <p>No, but acceptable subject to conditions.</p>
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8 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Summary comment

As the site as it is located within the Area 20 Growth Centre Precinct under the SEPP, the provisions of the SEPP and Appendix 6 – Area 20 Precinct Plan 2011 apply to the development of the site.

The site is zoned R3 Medium Density Residential under the SEPP Appendix 6 Area 20 Precinct Plan. Residential flat buildings are permissible within the R3 zone with consent. The proposal is consistent with the objectives of the R3 zone.

The submitted plans show that the proposal has a height of 26 metres, as permitted under the maximum height development standard of 26 metres for the site in Appendix 6 Clause 4.3 Height of buildings.

The floor space ratio of the proposal is 1.69:1, which is within the permitted floor space ratio of 1.75:1 for the site under Appendix 6 Clause 4.4 Floor space ratio.

The minimum density requirement for this site is 25 dwellings per hectare, which is complied with as the development is proposing 203 dwellings per hectare.

Summary comment

We have assessed the revised application against relevant provisions of the SEPP and Appendix 6 and it is fully compliant.

9 Blacktown City Council Growth Centre Precincts Development Control Plan 2018 (Growth Centre DCP)

Summary comment

The Growth Centre DCP provides the planning, design and environmental objectives and controls for the assessment of Development Applications in Blacktown City's Growth Centre Precincts and applies to the subject site. The site is within the Area 20 Precinct.

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

9.1 Part 4.0 – Development in the Residential Zones (from main body of DCP)

DCP requirement	Proposal	Complies	
Key controls for residential flat buildings (Table 4-10)			
Front setback	<p>Minimum 6 metres</p> <p>Balconies and other articulation may encroach into setback to a maximum of 4.5 metres from the boundary for the first 3 storeys, and for a maximum of 50% of the façade length.</p>	<p>All property boundaries of proposed Lot 2 front a street.</p> <p>The proposed buildings are set back 6 m to a street boundary. There are some balconies on Levels 1 – 3 which are 4.5 m from a street boundary and some corner balconies are between 3 – 5 m from the splay corners.</p> <p>Some balconies on the upper Levels 4 – 7 are setback 5 m from a street boundary and some corner balconies are setback 4.5 m from a splay corner.</p> <p>The proposed encroachments are within 50% of the building façade, create articulation suitable for the site and will be unlikely to create any amenity impact to the surrounding properties.</p> <p>The proposed setbacks are satisfactory in this instance.</p>	No but acceptable and also compliant with the ADG.
Site responsive design (Section 4.1)			
Cut and fill	<p>Maximum 500 mm cut/fill.</p> <p>Validation Report for imported fill.</p> <p>Where cut on the boundary, retaining walls must be integrated with its construction, otherwise minimum 450 mm from boundary.</p> <p>Maximum 600 mm high walls.</p>	<p>Benching occurs across the site. Sections exceed 500 mm cut and fill due to the 2 basement level construction across the site, which is expected for a high density housing site.</p> <p>No fill is being imported to the site</p>	No but acceptable.

	Maximum 1,200 mm combined wall height. Minimum 0.5 m between each step.	according to the DA documents.	
Dwelling design controls (Section 4.2)			
Garages, access & parking	Planting/walls adjacent to driveways must not block sight lines. Driveways to have soft landscaped areas on either side.	Planting strip along both sides of driveways. 1.8 metre high fencing may reduce sight lines and should be reduced to max 1 m high through consent condition.	No, but acceptable with condition.
Fencing	Front fencing max. 1 m. Front fences not to impede sight lines. Side and rear fences max. 1.8 m.	Front fences around the site and within the development around the private open space (POS) of units are up to 1.8 metres high, which are not acceptable, can impede sight lines, and reduce amenity and safety by casual surveillance. A condition for site front fencing shall be imposed to be max 1 m high.	No, but can be rectified with conditions.

9.2 Schedule 4 Area 20 Precinct (precinct specific controls)

Control	Comment
Section 2- Referenced figures	
Figure 2-1 Precinct Layout Plan	The subdivision layout under the previous subdivision approval (DA-16-04138) including the proposed new roads for the site consistent with the Indicative Layout Plan.
Figure 2-2 Aboriginal heritage	Site is identified on Fig 2-2 as an area with some Aboriginal cultural significance. Apex Archaeology undertook an Aboriginal Archaeological Assessment for the site, dated March 2017, following previous studies identifying the site as having high Aboriginal archaeological sensitivity. Our Heritage Advisor is satisfied with the report and standard conditions 1.3.3 and 14.2 will be imposed in the event of any uncovering of an item during construction.
Figure 2-3 Flood Prone Land	The site is not identified as flood prone land or in the riparian corridor.
Figure 2-4 Salinity	The site is identified as having moderate salinity potential in Fig 2-4. A Contamination, Salinity and Geotechnical Assessment Report prepared by GeoEnviro Consultancy Pty Ltd (June 2016) contains recommendations for management of these issues. Condition 5.5 will be imposed for the implementation of the Report recommendations.
Section 3 – Neighbourhood, Subdivision and Residential Design	
3-1 Precinct Road Hierarchy	The proposed local roads 1, 2, 3 and 4 are consistent with the Indicative Layout Plan in Fig 2-1 and Road Hierarchy in Fig 3-1. Nine metre wide half width roads and 3.5 metre wide pavements are proposed on all 4 roads that bound the site.
3-6 Section C - Landscape Buffer to Local Road	Landscape plans are consistent with Fig 3-6. Our Street Tree Officer has nominated the requirement for street trees for each road under

	the subdivision approval DA-16-04138, which will be required in conditions 2.6 and 18.24.
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10 Central City District Plan 2018

Summary comment	Complies
<p>This District Plan, prepared by the Greater Sydney Commission, sets out planning priorities and actions for the development of the Central City District, which includes the local government area of Blacktown. District planning directly informs local council planning and the decisions of State agencies.</p> <p>Whilst the Environmental Planning and Assessment Act 1979 does not require consideration of District Plans in the assessment of Development Applications, a review of the Central City District Plan has been undertaken in relation to the proposal. Liveability Planning Priority C5 of the Plan which states: <i>“Providing housing supply, choice and affordability with access to jobs, services and public transport.”</i></p> <p>This proposal for 239 apartments, ranging from 1 to 3 bedrooms in size, located adjacent to the proposed new Tallawong Local Centre and newly operational Tallawong Metro Station is consistent with Planning Priority C5. The proposal maximises the housing development potential on the site under the existing height and floor space ratio planning controls. The proposal will assist in meeting the Plan’s 2016-2021 housing target for Blacktown City of 13,950 additional dwellings.</p>	Yes

11 Infrastructure contributions

The site is subject to a Special infrastructure Contribution under section 7.24 of the Environmental Planning and Assessment Act (EPA Act) 1979.

The subject site is also subject to Local Infrastructure Contributions under section 7.11 of the EPA Act 1979. The site is within the catchment of Blacktown City Council’s Section 7.11 Contributions Plan No. 22L – Rouse Hill (Land) and Section 7.11 Contributions Plan No. 22W – Rouse Hill (Works). These Contributions Plans outline Council’s policy regarding the application of Section 7.11 of the Environmental Planning and Assessment Act 1979 in relation to the acquisition of land for and the provision of local infrastructure and baseline facilities within Rouse Hill.

The contributions payable in each category are set out in the consent conditions.