

Assessment against planning controls

1 Environmental Planning and Assessment Act 1979

a. Section 79C 'Heads of Consideration'

The development has been assessed against the matters for consideration under Section 79C of the Act as detailed below.

Heads of Consideration 79C	Comment	Complies
a. The provisions of:		
(i) Any environmental planning instrument (EPI)	The proposal is considered to be inconsistent with the relevant EPIs, including the Growth Centres SEPP 2006 and SEPP (Infrastructure) 2007, as it proposes development over land identified as 'future public transport investigation area'. Clause 6.10 of the SEPP requires concurrence from Transport for NSW which has not been granted.	No
(ii) Any development control plan (DCP)	Although the proposed development is a permissible land use within the R3 Medium Density Residential zone, the proposal also seeks to construct residential buildings over a portion of the site zoned SP2 (Drainage) and to reconfigure the SP2 zoned land within the site. This change must be the subject of a Planning Proposal which has not been submitted to Council and therefore cannot be supported.	No
(i) The regulations	The Blacktown City Council Growth Centre Precincts DCP applies to the site. The proposed development is compliant with the majority of numerical controls established under the DCP relating to built form and scale, however fails to address requirements relating to flooding controls of the DCP. There is no assessment of the flood impacts of the proposed development encroaching into the flood prone land and within the SP2 (Drainage) zoned land and is therefore unacceptable.	No
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	It is considered that the location of the proposed buildings in an area set aside for a future transport corridor investigation area is premature and may undermine the achievement of the regional transport network. Appropriate consideration has not been given to the likely impacts of relocating the SP2 zoned land upon flooding and the existing watercourse, and consequently Council cannot establish suitable floor levels for the development. Insufficient information is provided in relation to flood impact assessments, riparian corridor works and supporting hydrologic and hydraulic calculations. Based on the information provided, the proposal will have a negative impact on the natural and built environment. In view of the above it is believed that the proposed development will have unfavourable social, economic and environmental impacts.	No No No

c. The suitability of the site for the development	<p>The subject site is not suitable for the proposed development as it is identified as 'transport corridor investigation area' under the Growth Centres SEPP. While residential flat buildings are permissible on the site with development consent, the proposal is premature and will potentially undermine the regional transport plan for the North West Growth Area.</p> <p>The proposal is inconsistent with Appendix 4 'Alex Avenue and Riverstone Precinct Plan' with respect to Clause 6.10 and has not received the concurrence of Transport for NSW.</p>	No
d. Any submissions made in accordance with this Act, or the regulations	<p>Submissions have been received and considered by Transport for NSW (TfNSW), Roads and Maritime Services (RMS) and NSW Police.</p> <p>The withholding of concurrence from TfNSW forms the major reason for refusal of the application.</p>	No
e. The public interest	<p>The proposal is not in the public interest as it could jeopardise the achievement of a regional transport corridor as identified within the Growth Centres SEPP.</p>	No

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

The Sydney Central City Planning Panel (SCCPP) is the consent authority for all development with a capital investment value (CIV) of over \$20 million. As the DA has a CIV of \$41,328,730 million, Council is responsible for the assessment of the DA and determination of the application is to be made by the SCCPP.

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 meets the threshold for traffic generating development and therefore the proposal was referred to the RMS. The RMS has made a number of comments in relation to all buildings and structures to be wholly within the freehold property, along the Schofields Road boundary. It has also advised that concurrence of Transport for NSW is required in relation to the future expansion of the Northwest rail link.

4 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. As discussed previously in this report, the proposal fails to address a key principle of the SEPP relating to the 'future transport investigation area' and is therefore not supported on this basis. However, for completeness, a full assessment of the proposal against the relevant requirements of the SEPP is provided below.

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	The site is identified as Flood Prone and Major Creeks Land on the Development Control Map. The submission does not address the flooding controls of the DCP as there is no assessment of the flood impacts of the proposed development encroaching into the flood prone land and onto SP2 Drainage zoned land. The application cannot be assessed or determined based on the information provided and therefore should be refused.	No Refusal Reason
Cl. 20 Development on and near certain land at Riverstone West	The site is not located in Riverstone West.	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	<p>R3 – Medium Density Residential. 'Residential flat building' permissible in the zone with consent.</p> <p>SP2 – Drainage – Residential flat buildings not permissible</p> <p>Railway Corridor Investigation Area – requires concurrence of TfNSW</p>	<p>Yes</p> <p>No</p> <p>No - Concurrence not granted</p>
Part 4 Principal development standards		
4.1AB Cl. (9) - Min. lot size for RFB in R3 zone ➤ Min. 2,000 m ²	Site area – 9,002 m ²	Yes
4.1B Residential Density ➤ Min. 25ph	The proposal achieves 142 dwellings per hectare	Yes
4.3 Height of Buildings ➤ Max. 16m	<p>Maximum height – 16.4 m. Clause 4.6 exception sought.</p> <p>Transport for NSW does not support the height of the development as it exceeds the height of the proposed rail track above existing ground level.</p>	No – discussed in main report.

4.4 Floor space ratio (NB. calculations to be in accordance with 4.5) ➤ Max. 1.75:1	FSR - 1.57:1 (7,088 m ² excluding RE1 & SP2 zoned land)	Yes
4.6 Exceptions to development standard ➤ Request must be in writing	200-400 mm height variations sought for Block A, Block B and Block D. A Clause 4.6 request has been submitted. Height variation of plant, stairs and lift overruns only.	Yes – discussed in main report.
Part 5 Miscellaneous provisions		
5.6 Architectural roof features	N/A	N/A
5.9 Preservation of trees or vegetation	The development proposes to retain some trees where possible.	Yes
5.10 Heritage conservation	There are no heritage restrictions on the site or nearby. In relation to Aboriginal Heritage, a report has been prepared by Artefact and is submitted with the application.	Yes
Part 6 Additional local provisions		
6.1 Public utility infrastructure	Site can be serviced by water and sewer.	Yes
6.2 Attached dwellings, manor homes and multi-dwelling housing in R2 zone	N/A	N/A
6.4 & 6.5 Native vegetation	Native Vegetation Protection (NVP) area and Existing Native Vegetation (ENV) are identified on the site. However, the proposed buildings are not located within this section of the site. Appropriate measures would need to be taken to protect the area in the case of an approval.	Yes
6.6 Zone B4 Mixed Use	N/A	N/A
6.7 B1 Neighbourhood Centre	N/A	N/A
6.10 Development on land within or adjacent to Public Transport Corridors	Consent must not be granted to development in the area marked 'N' on the Land Zoning Map without the concurrence of Transport for NSW. The application was referred to Transport for NSW which advised that concurrence is not granted as all the proposed buildings encroach within the future railway corridor. In addition, the height of the development exceeds the height of the proposed rail track above existing ground level and therefore cannot satisfy TfNSW railway protection requirements.	No Concurrence not granted Refusal Reason

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 R3 Medium Density Residential under the Growth Centres SEPP. A residential flat building, defined as a building containing 3 or more dwellings, but does not include an attached dwelling, a manor home or multi dwelling housing, is permissible within the zone with consent. The proposal is defined as a residential flat building and the development meets the objectives of the zone.

b. *Clause 6.10 Development on land within or adjacent to Public Transport Corridors*

The consent authority must not grant development consent to development on land to which Clause 6.10 applies without the concurrence of Transport for New South Wales.

Council has received confirmation from Transport for New South Wales that its concurrence is not granted to the proposed development and consequently refusal of the application is necessary.