

Supplementary Report to Sydney Central City Planning Panel

Panel reference	2017SWC084
DA number	SPP-17-00015
Proposed development	Construction of 4 x residential flat buildings comprising 128 residential units and 169 car parking spaces in 2 basement levels.
Street address	17 - 19 Schofields Road, Schofields
Applicant/owner	Clearstate Development Co. Pty Ltd.
Date of DA lodgement	26 June 2017
Number of submissions	Nil – not notified
Regional development criteria (Schedule 4A of the EP&A Act)	Capital investment value (CIV) over \$20 million and lodged prior to 1 March 2018 (\$41,328,730)
All relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) • Blacktown City Council Growth Centre Precincts Development Control Plan 2018
Report prepared by	Blacktown City Council
Original report date	21 December 2017
Panel meeting date and deferral	<p>Panel meeting held on 18 January 2018.</p> <p>The Panel unanimously agreed to defer the application for a maximum of 3 months to allow the applicant to contact Transport for NSW to clarify its requirements.</p> <p>The Panel also resolved to request the Department of Planning & Environment to facilitate a meeting between Council, the applicant and Transport for NSW to resolve the issue.</p>
Supplementary report date	10 April 2018
Recommendation	Refusal

Summary of s4.15C matters

Have all recommendations in relation to relevant s4.15C matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s7.24)? Applicable only if approved

Conditions

Have draft conditions been provided to the applicant for comment? Not applicable as refusal is recommended

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ATTACHMENTS

- Attachment 1 – Record of deferral - Sydney Central City Planning Panel
Attachment 2 – Acknowledgment of meeting and outcomes – Transport for NSW
Attachment 3 - Previous report to the Sydney Central City Planning Panel

1 Executive summary

- 1.1 This supplementary report considers the resolution of the Sydney Central City Planning Panel (the Panel) at its meeting of 18 January 2018 (attachment 1), subsequent actions by the applicant in facilitating a meeting with Transport for NSW and resultant outcomes.
- 1.2 We have undertaken an assessment of the outcomes of the applicant's meeting with Transport for NSW held on 2 February 2018. A copy of the letter from Transport for NSW to the Planning Panel Secretariat dated 20 March 2018 is at attachment 2.
- 1.3 The letter concludes that *"...the current development proposal could not proceed without adversely impacting on the viability of any future project within the corridor"*.
- 1.4 Transport for NSW also advised of discussions relating to a range of other possible temporary land use options on the site prior to the railway infrastructure project commencing. This is not relevant to the determination of this DA and would require the submission of a separate Development Application. Any such application would again require the concurrence of Transport for NSW at that time.
- 1.5 In the absence of Transport for NSW's concurrence, as required by clause 6.10 of Appendix 4 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Alex Avenue and Riverstone Precinct), the current application is unsatisfactory when evaluated against section 4.15C of the *Environmental Planning and Assessment Act 1979* (the Act).
- 1.6 This report recommends that the panel refuse the application for the reasons outlined in the report by us to the Sydney Central City Planning Panel dated 21 December 2017 (attachment 3).

2 Key planning issues assessment

2.1 Consideration of the granting of concurrence by Transport for NSW

- a. As a result of the Panel meeting held on 18 January 2018, the applicant was requested to contact Transport for NSW to clarify its requirements. This was to be done within a 3 month period.

- b. In addition, the Department of Planning and Environment was requested to facilitate a meeting between Blacktown City Council, the applicant and Transport for NSW.
- c. The applicant facilitated a meeting with Transport for NSW without the knowledge of either the Department of Planning and Environment or Blacktown City Council.
- d. According to Transport for NSW, a meeting with the applicant was held on 2 February 2018. This is reflected in its letter dated 20 March 2018 (attachment 2).
- e. While the meeting appears to have included discussion relating to potential options for temporary development of the site, as well as Transport for NSW highlighting the importance of the corridor investigation area, the critical concurrence of Transport for NSW was not provided.
- f. This concurrence is an essential prerequisite required by clause 6.10 of Appendix 4 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Alex Avenue and Riverstone Precinct) which states:

'6.10 Development of land within or adjacent to public transport corridor

- (1) Consent must not be granted to development in the area marked "N" on the Land Zoning Map without the concurrence of Transport for NSW.
- (2) In determining whether to provide concurrence, Transport for NSW is to take into account the likely effect of the development on:
 - (a) the practicability and cost of carrying out public transport projects on the land in the future, and
 - (b) without limiting paragraph (a), the structural integrity or safety of, or ability to operate, public transport projects on the land in the future, and
 - (c) without limiting paragraph (a), the land acquisition costs and the costs of construction, operation or maintenance of public transport projects on the land in the future.'
- g. Clause 6.10 acts as a prohibition where such concurrence is withheld.
- h. As concurrence has not been provided, there is no alternative but for this DA to be refused.

3 Conclusion

- 3.1 The proposed development has been assessed against all matters for consideration and is still unsatisfactory. It is considered that the likely impacts of the development have still not been satisfactorily addressed and that granting consent to the proposal would not be in the public interest. The site is considered unsuitable for the proposed development.

4 Recommendation

- 4.1 The Development Application be refused by the Sydney Central City Planning Panel for the reasons outlined in the previous report to the Sydney Central City Planning Panel and again outlined below:

- a. Transport for New South Wales has not granted concurrence to the proposal as all the buildings are proposed over land identified as 'Transport Corridor Investigation Area' under clause 6.10 'Development of land within or adjacent to public transport corridor' contained within Appendix 4 'Alex Avenue and Riverstone Precinct Plan' of State Environmental Planning Policy (Sydney Region Growth Centres) 2006. In addition, the height of the development exceeds the height of the proposed rail track above existing ground level.
 - b. The proposal is contrary to clause 1.2 (h) 'Aims of Precinct Plan' of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 which seeks to provide transport infrastructure to meet the needs of the community. The location of buildings within the 'Transport Corridor Investigation Area' is premature and has the potential to undermine the orderly development of the Precinct and growth area.
 - c. The application seeks to relocate SP2 (Drainage) zoned land without a Planning Proposal, which is contrary to section 3.33 of the Environmental Planning & Assessment Act 1979.
 - d. The proposal does not address the flooding control requirements contained in Part 2.3.1 'Flooding and water cycle management' of Blacktown City Council Growth Centre Precincts Development Control Plan 2018, as the proposal does not include an assessment of the flood impacts of the proposed development encroaching into the flood prone land and onto the land zoned SP2. The application cannot be assessed or determined based on the inadequate information provided.
 - e. The proposed development does not promote the orderly development of land in accordance with the objectives of the Environmental Planning & Assessment Act 1979.
 - f. The proposal is unacceptable under the provisions of Section 4.15 of the Environmental Planning & Assessment Act 1979 in that the development is located entirely within a 'Transport Corridor Investigation Area' under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 which, if developed prematurely, would jeopardise transport services within a Growth Area, which is not in the public interest.
- 4.2 The applicant, Transport for NSW, RMS and NSW Police be notified of the Planning Panel's decision.
- 4.3 The applicant be advised of the right of appeal to the Land & Environment Court of NSW.



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