

# Assessment report to Sydney Central City Planning Panel

Panel reference: 2017SWC095

## Development application

<b>DA number</b>	SPP-17-00013	<b>Date of lodgement</b>	13 June 2017
<b>Applicant</b>	North Western Group Pty Ltd		
<b>Owner</b>	A L Galea		
<b>Proposed development</b>	Subdivision into 2 superlots and public roads, construction of 2 x 4 storey residential flat buildings and 2 x 3 storey residential flat buildings, containing a total of 82 apartments with basement car parking for 118 cars and associated civil and landscaping works		
<b>Street address</b>	172 Tallawong Road, Rouse Hill		
<b>Notification period</b>	26 October – 9 November 2017 3 – 17 September 2018 6 – 20 February 2020	<b>Number of submissions</b>	1 (from 1st notification period in 2017)

## Assessment

<b>Panel criteria</b>	<ul style="list-style-type: none"> <li>Capital investment value (CIV) over \$30 million (DA has CIV of \$30,801,185 incl GST)</li> </ul>
<b>Relevant section 4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act 1979</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River</li> <li>State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) and Apartment Design Guide</li> <li>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>Blacktown City Council Growth Centre Precincts Development Control Plan 2020</li> <li>Central City District Plan 2018</li> <li>Blacktown Local Strategic Planning Statement 2020</li> </ul>
<b>Report prepared by</b>	Bertha Gunawan
<b>Report date</b>	6 May 2020
<b>Recommendation</b>	Approve, subject to the conditions listed in Attachment 10.

## Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Applicant's Clause 4.6 statement
- 6 Development Application plans
- 7 Assessment against planning controls
- 8 Clause 4.6 assessment
- 9 Public submission
- 10 Draft conditions of consent

## Checklist

### Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 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? Yes

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? Yes

### Conditions

Have draft conditions been provided to the applicant for comment? Yes

## Contents

1	Executive summary.....	4
2	Location.....	4
3	Site description.....	5
4	Background.....	5
5	The proposal.....	5
6	Assessment against planning controls.....	6
7	Key issues.....	6
8	Issues raised by the public.....	7
9	External referrals.....	7
10	Internal referrals.....	7
11	Conclusion.....	8
12	Recommendation.....	9

## 1 Executive summary

---

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
  - Building separation variations are proposed between the 4 buildings at certain levels only and range from 0.5 m to 2.5 m less than the required separation. Visual privacy can still be provided by screens and highlight windows by way of conditions.
  - Building height variations for roof parapet, plant and equipment, lift shaft and skylight over the 12 m height plane are proposed as point encroachments only and are acceptable.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments have not identified any issues of concern that cannot be addressed by conditions of consent.
- 1.3 The application is therefore assessed as satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 10 based on the grounds listed in the Recommendation in Section 12 below.

## 2 Location

---

- 2.1 The site is located at the eastern edge of the Riverstone East Precinct of the North West Growth Area. The location of the site is shown at attachment 1 and illustrated in the aerial photograph at attachment 2.
- 2.2 The site is located in an area undergoing transition, which is characterised by rural paddocks, dwelling houses and areas zoned for medium density residential development. The site is nearby to the intersection of Tallawong Road with Guntawong Road, which provides direct links to Riverstone Road, Windsor Road and Schofields Road. The site will therefore provide good vehicular access for future residents to other parts of the subregion, including existing services and facilities at the Riverstone and Rouse Hill town centres, as well as beyond to the larger metropolitan area.
- 2.3 Tallawong Road provides direct access to the new Tallawong Metro Station and proposed local centre, approximately 1 km to the south, with train services linking the locality to the wider Sydney Metropolitan railway network.
- 2.4 Immediately to the north of the site on the corner of Guntawong and Tallawong Roads is land zoned RE1 Public Recreation, proposed for a future public park. On Guntawong Road, on the opposite corner from this proposed public park, is land zoned B2 Local Centre. Hence the site is planned to have local shops and facilities within close walking distance.
- 2.5 That part of the site proposed for redevelopment is at the eastern edge of the Riverstone East Precinct and in a band of land zoned R3 Medium Density Residential around the local centre. Land immediately to the south is zoned for R2 Low Density Residential and land to the east is zoned RU4 Primary Production Small Lots. The eastern half of the subject land is also zoned RU4, but has not yet been rezoned for urban purposes by the NSW Government.
- 2.6 In this location, the R3 component of the site is subject to the following key development standards:
  - 12 m maximum height of buildings
  - 2,000 m<sup>2</sup> minimum lot size for a residential flat building
  - 25 dwellings per hectare minimum residential density.

An extract of the zoning plan for the site and surrounds is at attachment 3.

### **3 Site description**

---

- 3.1 The subject land is Lot 53 in DP 30186, known as 172 Tallawong Road, Rouse Hill. The site is zoned part R3 Medium Density Residential, part RU4 Primary Production Small Lots and part R2 Low Density Residential. The site has been previously used for rural purposes.
- 3.2 Lot 53 is rectangular in shape with a site area of approximately 20,236 m<sup>2</sup> and dimensions of approximately 82 m by 246 m. The proposed subdivision is intended to create a new, roughly rectangular shaped, R3 zoned lot of 6,474 m<sup>2</sup> (with dimensions of approximately 63/70 metres wide by approximately 100/110 m long) on the Tallawong Road frontage and a roughly rectangular shaped residue RU4 zoned lot of 9,102 m<sup>2</sup>. A proposed new local road will divide the 2 proposed lots. A new half width road is to be provided on the northern boundary of the proposed R3 lot. A new half width road is to be provided along the full length of the site's southern boundary, being the small strip of the site on that boundary that is zoned R2.
- 3.3 The R3 zoned part of the site that is to be redeveloped for residential flat buildings has a fall of 5 m from north to south and is presently occupied by a dwelling and associated structures. There are existing trees on the Tallawong Road frontage and around the existing dam that is located in the eastern RU4 zoned part of the site.
- 3.4 The R3 zoned land is not identified in the SEPP (Sydney Region Growth Centres) 2006 as being of Aboriginal heritage significance, European heritage significance or as being flood affected. The whole site is not identified as subject to bushfire risk in any applicable planning documents.
- 3.5 An aerial image of the site and surrounding area is at attachment 2.

### **4 Background**

---

- 4.1 The original Development Application was received on 13 June 2017. Elements of the residential flat buildings were redesigned in response to our concerns regarding a number of inadequacies in the original plans, however the revised plans still failed to adequately address our concerns.
- 4.2 A new architect was then appointed by the applicant and a totally new design over this site was submitted to Council on 26 March 2019. Additional supporting amended plans were subsequently further submitted in June and October 2019.
- 4.3 A Clause 4.6 variation application was required for the amended proposal as the proposed buildings now exceed the maximum height of buildings development standard under the SEPP.

### **5 The proposal**

---

- 5.1 The proposal has been amended numerous times. The current proposal demonstrates a better design outcome in comparison to the initial proposals, by reduced building façade widths, a reduced number of dwellings (from 115 to 82 units), reduced building height and number of storeys (all 4 buildings were initially 4 storeys high with now only two buildings being 4 storeys high and the other two buildings are 3 storeys high), increased setbacks from adjoining boundaries, improved streetscape and also improved residential amenity.
- 5.2 The amended Development Application was lodged by North Western Group Pty Ltd in March 2019. The development is now proposed as follows:
  - subdivision of the site into 2 superlots and new public roads

- construction of 2 x 3 storey residential flat buildings and 2 x 4 storey residential flat buildings on one of the superlots that is zoned R3 Medium Density Residential
  - a total of 82 apartments over 2 basement levels, providing a total of 118 car parking spaces, bike parking, storage and waste service areas
  - construction of public roads, stormwater drainage works, landscaping and private open space.
- 5.3 A Clause 4.6 justification has been submitted by the applicant to seek a variation to the height plane due to encroachments of the roof parapets, a skylight and lift shafts/stairwell overruns above the designated height plane of 12 m.
- 5.4 More details about the proposal are outlined in attachment 4 and a copy of the development plans is included at attachment 6.

## **6 Assessment against planning controls**

---

- 6.1 A full assessment of the Development Application against relevant planning controls is provided in attachment 7.

## **7 Key issues**

---

### **7.1 Building separation**

- 7.1.1 The 4 buildings generally comply with the minimum building separation as required by the Apartment Design Guide (ADG), with the following exceptions:
- minimum required distance between Buildings A and B is 12 m – complies except for the level 1 balcony to balcony separation which is 11.5 m
  - minimum required distance between Buildings B and C is 12 m – complies except level 1 between the balconies of Units B06 and C12 which is 10.5 m
  - minimum required distance between Buildings C and D is 12 m – complies except on the ground floor courtyard to courtyard separation which is 10 m
  - minimum required distance between Buildings D and A is 12 m – complies except between the northern bedroom window of Unit D09 on level 2 (at FFL 65) which overlooks Unit A01's balcony on level 1 (at FFL 63.5).
- 7.1.2 A suitable level of visual privacy is capable of being provided for these individual apartments listed above, by way of landscape and privacy screens, with the exception of 2 units that are located 9.5 m opposite one another in Buildings D and A. This can be still be addressed with a condition requiring a highlight window to Unit D09's northern bedroom, to mitigate the direct overlooking impact onto Unit A01's balcony.
- 7.1.3 This will not impact on the amenity of this unit as there is also a second window on the western side of Unit D09's northern bedroom that opens out to its own balcony. The proposed highlight window to this bedroom's northern window is considered acceptable as there will be adequate cross ventilation provided to this bedroom.
- 7.1.4 The above recommended treatments are not inconsistent with the ADG's objectives and are recommended that they be incorporated in amended plans as Pre CC conditions of consent.

## 7.2 Building height

- 7.2.1 Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP 2006) Appendix 12 provides that the maximum height of a building on the site should not exceed 12 m. All the apartments and facades of the building comply.
- 7.2.2 However, the rooftop lifts/roofs over common terraces on Buildings A and D exceed the height by up to 0.4 m and a small part of the skillion roof of Building C exceeds the height by up to 0.2 m. Consequently, the proposed building height is 12.4 m at its highest point.
- 7.2.3 The applicant has submitted a Clause 4.6 variation statement which is included at attachment 5. The submission addresses the requirements of subclauses 4.6(3) and (4) and is considered satisfactory in the circumstances of this site.
- 7.2.4 It is considered that the minor variation in the height standard to accommodate lifts and rooftop features is consistent with achieving the objectives of the height of buildings development standard. The overall building height is still considered to be consistent with the desired future character and building forms anticipated within the surrounding area. There are no unreasonable environmental impacts from the proposed height variation on the site or locality.
- 7.2.5 Our assessment of the Clause 4.6 variation submission is detailed in attachment 8. The variations sought are assessed as reasonable and are supported.

## 8 Issues raised by the public

---

- 8.1 The proposed development was notified on 3 occasions to property owners and occupiers in the locality. The first notification was between 26 October and 9 November 2017 and the second notification between 3 and 17 September 2018. The DA was also advertised in the local newspapers and a sign was erected on the site.
- 8.2 We received 1 submission from the first round of notification, but none from the second or third notification periods.
- 8.3 The issues raised relate to privacy impacts from the proposed rooftop communal space, the proposed breach in building height and excessive residential density. A summary of each issue and our response is provided in attachment 9.
- 8.4 The objection is not considered sufficient to warrant refusal or further modification of the Development Application.

## 9 External referrals

---

- 9.1 The Development Application was referred to the following external authorities for comment:

Authority	Comments
NSW Local Police	Acceptable subject to conditions

## 10 Internal referrals

---

- 10.1 The Development Application was referred to the following internal sections of Council for comment:

Section	Comments
Building	Acceptable subject to conditions
Street Trees	Acceptable subject to conditions
City Architect	Satisfactory. The design for this challenging site has gone through multiple iterations, resulting in a development that balances the design and positioning of the buildings with the steep topography of the site and functionality of the ground level spaces. This has resulted in a development that in part is above the natural ground level and in part below the natural ground level. The design solutions, such as terraced landscaping, achieve suitable transitions between the street and the ground floor of the development, whilst also providing usable communal open space within the development. The building's façade and exterior presentation is acceptable and incorporates a suitable mix of materials appropriate for this type of development.
Heritage	Acceptable subject to conditions (due diligence statement submitted and reviewed)
Engineering	Acceptable subject to conditions
Waste	Acceptable subject to conditions
Traffic	Acceptable
Environmental Health	Acceptable subject to conditions
Biodiversity	Acceptable subject to conditions

## 11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be suitable for the site and locality, subject to the proposed conditions.
- 11.2 The proposal is consistent with the objectives of the R3 Medium Density Residential zone and is permissible in the zone with consent.
- 11.3 The proposal has been considered under the requirements of SEPP 2006 and is considered satisfactory, subject to the approval of an application under Clause 4.6 for a variation to the height of building development standard, which is considered to be acceptable in this case. Subject to proposed conditions, the proposal is appropriate under the provisions set out under SEPP 65 and the ADG. The areas of non-compliance with the numerical requirements are only minor and acceptable in the context of the development as a whole.
- 11.4 The proposal generally meets the requirements of the Blacktown Growth Centre Precincts DCP 2018, with some very minor variations. It is considered generally satisfactory with regard to relevant matters such as proposed road layout, siting, traffic impacts, access, internal apartment amenity, communal open space, deep soil and landscaping, stormwater drainage, site contamination and landscaping, subject to the imposition of suitable conditions of consent.
- 11.5 It is considered that the likely impacts of the development can be satisfactorily addressed and that approval of the proposal is in the public interest. The site is considered suitable for the proposed development if the conditions are satisfied.

11.6 Having regard to the circumstances of the case, approval of the application is recommended subject to conditions.

## 12 Recommendation

---

- 12.1 Uphold the Applicant's Clause 4.6 written request to vary the height of buildings development standard under Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 as the proposal still meets the height objectives of the zone and provides a positive development outcome.
- 12.2 Approve Development Application SPP 17-00013 for the reasons listed below and subject to the conditions listed in Attachment 10.
- a The proposal results in an acceptable scale of development for the site and generally complies with the relevant provisions of the applicable planning controls.
  - b The request made under Clause 4.6 of SEPP 2006 Appendix 12 to vary the maximum height of buildings development standard is well founded. Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify the variation to the development standard.
  - c The proposed development does not create unreasonable environmental impacts to existing or future potential adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy impacts.



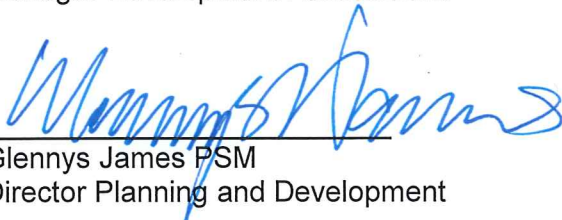
---

Bertha Gunawan  
Assistant Coordinator Planning Assessment



---

Judith Portelli  
Manager Development Assessment



---

Glennys James PSM  
Director Planning and Development