

Assessment report to Sydney Central City Planning Panel

Panel reference: PPS-2017SWC116

Development application

DA number	SPP-17-00030	Date of lodgement	18 September 2017
Applicant	UPG 40 Pty Ltd		
Owner	UPG 40 Pty Ltd		
Proposed development	Multi-dwelling housing development for the construction of 235 x 2 storey dwellings over 5 already approved superlots, de-watering of existing dams, tree removal, private road construction and stormwater drainage works including a temporary on-site stormwater detention basin on 2 approved superlots, associated landscaping and provision of open space		
Street address	312 South Street, Marsden Park		
Notification period	17 October to 1 November 2017	Number of submissions	0

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	Capital investment value (CIV) over \$20 million (DA has a CIV of \$47.2 million).
Relevant section 4.15(1)(a) matters	- Environmental Planning and Assessment Act 1979 - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy No. 55 – Remediation of Land - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River - State Environmental Planning Policy (Sydney Region Growth Centres) 2006 - Blacktown City Council Growth Centre Precincts Development Control Plan 2020 - Central City District Plan 2018 - Blacktown Local Strategic Planning Statement 2020
Report prepared by	Jared Spies
Report date	10 June 2020
Recommendation	Approve, subject to the conditions listed in attachment 7.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans
- 6 Assessment against planning controls
- 7 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
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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
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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
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Special Infrastructure Contributions

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

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

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- a chicken farm exists to the east of the site which will cease to operate in the near future. The applicant has submitted an odour report with this DA and purchasers of lots in this development will need to be aware of this report by a S88B instrument on the title of the lots
 - dewatering of 2 existing dams is proposed, which is considered acceptable provided the dewatering is undertaken as per an approved dam dewatering plan
 - a TransGrid easement runs through the middle of the site which was created as a residue lot under a separate subdivision application being JRPP-16-03316, but will not affect the development of the 5 superlots.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with 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 7.

2 Location

- 2.1 The site, being 5 superlots, is located at 312 South Street in the suburb of Marsden Park. The site is within the Marsden Park Precinct of the North West Growth Area as identified by State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (GCSEPP).
- 2.2 The site is 4.8 km from Schofields railway station and 4.5 km from the M7 Motorway. The site is approximately 300 m west of the proposed North-South Rail Link extension to St. Marys.
- 2.3 The future Marsden Park Town Centre will be a little over 800 m from the site. The immediate locality to the west and south-west is existing and proposed low density residential development. Land zoned for medium density residential development is located to the north, south-east and east.
- 2.4 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The site is rural in character and the majority of the site is open paddock, with 2 dams in the northern portion.
- 3.2 The site is bordered by cleared and undeveloped rural property to the north, the former Blacktown City Council Waste Services Depot to the north-east, a chicken farm and dwellings to the east, South Street to the south and Glengarrie Road to the west.
- 3.3 A 60 m wide TransGrid easement runs adjacent to the superlots, to be located in a proposed public reserve from the northern to southern boundary. This easement does not affect the 5 superlots as it is in a public reserve.
- 3.4 The site is zoned R3 Medium Density Residential and has a 14 m building height limit as prescribed under the Growth Centres SEPP.
- 3.5 An aerial image of the site and surrounding area is at attachment 2.

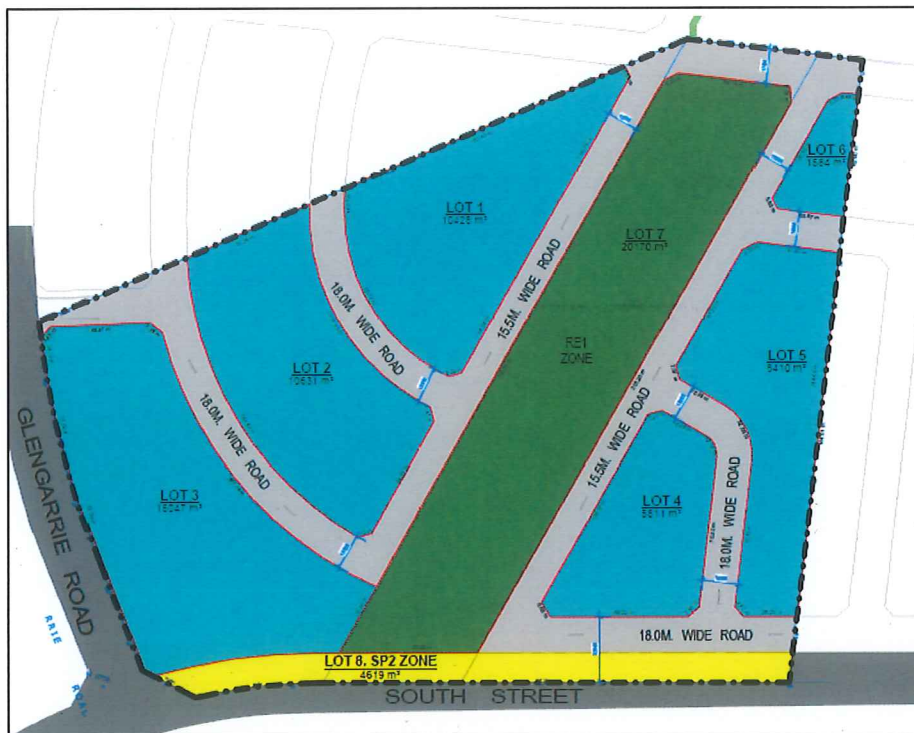
4 Background

- 4.1 Subdivision of the site was approved under JRPP-16-03321 by the NSW Land and Environment Court on 5 June 2017, and was subsequently modified in September 2018 by the Court to delete the Deferred Commencement conditions of consent. JRPP-16-03321 is now an active consent to subdivide the site into 8 proposed lots, including 6 residential superlots, 1 lot for RE1 Public Recreation zone and 1 lot for SP2 Infrastructure zone for the future widening of South Street.
- 4.2 Other subdivision works approved under JRPP-16-03321 include construction of public roads, construction of ancillary stormwater works and public domain landscaping works, demolition of existing structures and tree removal within and adjoining the proposed public roads. The subdivision has not yet been registered and construction works have not yet begun.
- 4.3 JRPP-16-03321 originally proposed residential flat buildings with 775 apartments and a Capital Investment Value of over \$102 million, which made the determining authority the Joint Regional Planning Panel. The proposal was amended considerably throughout the Court proceedings and the residential flat buildings were eventually removed from the proposal.
- 4.4 The site is still in its rural state and used to contain a brick and tile roofed dwelling and sheds. The site was also previously used for pig farming and breeding, as well as cattle and sheep grazing.
- 4.5 An Aboriginal archaeological due diligence assessment was submitted with JRPP-16-03321. The purpose of the report was to identify potential Aboriginal archaeological and cultural heritage constraints that may exist for the proposal, in consultation with the Deerubbin Local Aboriginal Land Council, and to guide how development impacts to known or potential archaeological sites, objects or areas of heritage sensitivity can be avoided or mitigated according to the requirements of the National Parks and Wildlife Act 1974. The assessment found that the site contains no documented Aboriginal sites or objects or any specific areas of potential Aboriginal archaeological sensitivity.
- 4.6 There were significant delays in finalising the assessment of this application as a result of several separate amendments being required to be made to the engineering plans to address our engineers' concerns.
- 4.7 The zoning plan for the site and surrounds is at attachment 3.

5 The proposal

- 5.1 The Development Application has been lodged by UPG 40 Pty Ltd.
- 5.2 The applicant proposes the construction of 235 x 2-storey detached and attached multi dwellings over the 5 residential superlots created under JRPP-16-03321 as shown on the plan below.
- 5.3 This Development Application seeks approval for 58 dwellings on proposed Lot 1, 28 dwellings on proposed Lot 2, 71 dwellings on proposed Lot 3, 32 dwellings on proposed Lot 4 and 46 dwellings on proposed Lot 5.
- 5.4 The finishes and materials proposed for the dwellings are outlined below:
 - roofs are proposed to be tiled and have 4 different colours ranging from light brown to grey
 - fascias and gutters are proposed to be Colorbond and range from white to grey in colour

- walls are proposed to be a combination of masonry and painted finishes. Brick colours will range from beige to dark brown. Paints will range in colours - white, beige and grey
 - garage doors are proposed to be Colorbond and range from light to grey in colour
 - aluminium powder coated windows are proposed and range from light to dark grey in colour.
- 5.5 The number of different finishes and materials proposed will provide a considerable variety of dwelling types and designs to address the development's streetscape appearance. There is a high level of variation in the width of dwellings and the articulation in the depth of dwellings in relation to the setback of elements to the site boundaries. The proposal includes a built form variety of 8 attached and detached dwelling types, 4 colour schemes and 3 main alternatives for finishes and materials, providing in excess of 66 dwelling types that can be formed across the 235 proposed dwellings.
- 5.6 The following dwellings are nominated to have an adaptable floor plan:
- Lot 1: dwellings 17, 26, 27, 28, 29 and 35
 - Lot 2: dwellings 36, 37, 42 and 51
 - Lot 3: dwellings 1, 6, 37, 38, 60, 61 and 64
 - Lot 4: dwellings 2, 3 and 21
 - Lot 5: dwellings 10, 18, 19, 27 and 45.
- 5.7 Proposed Lot 6 and a portion of proposed Lot 2 will be used for temporary on-site stormwater detention basins. These superlots will be the subject of a future multi-dwelling housing application when the temporary drainage basins are no longer required.
- 5.8 The proposal also includes the construction of private roads and accessways, associated drainage, private open space and landscaping.
- 5.9 Off-street parking is proposed for 423 cars, comprising 370 residential spaces and 53 visitor spaces.
- 5.10 Each dwelling will have its own single car garage, with 50% of the dwellings also having a second outdoor car space either adjacent to the respective dwelling or directly outside the garage.
- 5.11 Vehicular access to the site will be provided temporarily via South Street as approved under JRPP-16-03321. This will be the main entry/exit road to the development until roads in adjoining Lot 4 DP 262886 are fully constructed. Development of that land is currently being assessed under SPP-19-00006 where permanent access will be via Glengarrie Road and other future public roads.
- 5.12 The proposed new private road widths will range from 8 m to 12.5 m wide. These private roads will all connect to public roads created under JRPP-16-03321.
- 5.13 It is proposed that all existing trees within the superlots will be removed. All existing trees located within public roads or 3 m from the alignment of the public roads approved under JRPP-16-03321 have already been approved for removal. A total of 51 additional trees are proposed to be removed as part of this application, with a total of 244 street trees proposed to be planted. The number of new trees to be planted across the site far exceeds the number of existing trees on site.
- 5.14 Other details about the proposal are at attachment 4 and a copy of the development plans is at attachment 5.



Approved Subdivision Plan for JRPP-16-03321

6 Assessment against planning controls

6.1 A full assessment of the Development Application against relevant planning controls is provided at attachment 6, including:

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- Blacktown City Council Growth Centre Precincts Development Control Plan 2020
- Central City District Plan 2018
- Blacktown Local Strategic Planning Statement 2020.

7 Key issues

7.1 Existing chicken farm to the east of the site

- 7.1.1 An operational chicken farm exists directly to the east of the site at 306 South Street, Marsden Park. This is classified as an odour generating activity.
- 7.1.2 A residential subdivision and housing application (DA-19-01872) and multi dwelling housing application (DA-20-00335) have been lodged by the same applicant as for this DA at 306 South Street, and both applications are currently under assessment. Once these applications are approved, the operation of the chicken farm will cease

and all related broiler sheds will be demolished along with the existing dwellings, which will remove the odour generating activity from the land.

- 7.1.3 In the meantime, an agreement has also been entered by the owner of the chicken broiler farm and UPG 92 Pty Ltd requiring the farm to cease operations by no later than 30 June 2021. There is also a contract of sale for the property pending the abovementioned DAs being approved.
- 7.1.4 Notwithstanding the above, a condition of consent has been included that requires a S88B instrument to be registered on the title of the lots that will advise all potential purchasers of the development being located nearby an existing chicken farm, by attaching to any contract for the sale of dwellings the relevant Odour Report. This report confirms that odour generated by the chicken farm will be detected across the subject site. The report has been assessed by our Environmental Health officer who has found its findings to be acceptable subject to the report being attached to the contract for sale of dwellings in this development, and air conditioning units being installed in every dwelling.

7.2 Dewatering of 2 dams

- 7.2.1 There are 2 existing dams located below the northern boundary of the property, that require dewatering and filling in order to prepare the land for this residential development.
- 7.2.2 The filling of these dams is considered acceptable provided that the works are undertaken in a manner that is consistent with a dam dewatering plan that is required to be approved by Council prior to any dam dewatering works commencing.
- 7.2.3 The dam dewatering plan is to be prepared by a suitably qualified ecologist who will recommend safe measures to remove and relocate fauna that might be living in the dam. This plan will be required to be submitted to Council prior to the issue of any engineering Construction Certificate, and will need to be implemented prior to commencement of any work on the dam area. These are included as conditions in the consent.

7.3 A TransGrid easement runs through the middle of the site

- 7.3.1 A 60 m wide TransGrid easement runs through the middle of the site from the northern boundary to the southern boundary and contains overhead power lines. This portion of land was created as residue lot 7 under JRPP-16-03321 and is zoned RE1 Public Recreation.
- 7.3.2 Public open space is proposed in this RE1 zoned land. Council's Property Section has confirmed that Council will acquire this land at some point in the future.
- 7.3.3 This application was referred to TransGrid, which considered the proposed development to be acceptable subject to conditions. These conditions have been included in the draft consent.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality from 17 October to 1 November 2017. The Development Application was also advertised in the local newspapers and a sign was erected on the site.
- 8.2 We received no submissions.

9 External referrals

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

Authority	Comments
Transport for NSW	No objection to the proposal. The application was referred to Transport for NSW because of the site's proximity to the investigation area for the proposed North-South Rail Link extension between Tallawong Station and St. Marys.
Department of Planning, Industry and Environment	No objections to the proposal. The application was referred to the Department of Planning and Environment (now the Department of Planning, Industry and Environment) as requested by RMS to ensure that there is no need for upgrading of South Street, or additional property acquisition required if South Street is to be upgraded.
Transport for NSW (formerly NSW Roads and Maritime Services)	South Street is currently a local road and therefore concurrence under Section 138 of the Roads Act 1993 is not required. Currently, Transport for NSW is in the process of starting preliminary investigations into the South Street road upgrade. The estimated road width is still unknown and further investigations are underway to determine what road cross-section is required. RMS will eventually manage the upgrade from a local road to a sub-arterial or arterial road, however the timing and funding surrounding this upgrade is not confirmed.
TransGrid	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
Civil and Open Space Maintenance	Acceptable subject to conditions
Recreational Planning and Design	Acceptable subject to conditions
Traffic	Acceptable subject to conditions
Waste	Acceptable subject to conditions
Engineering	Acceptable subject to conditions
Building	Acceptable subject to conditions
Environmental Health	Acceptable subject to conditions

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

12 Recommendation

- 1 Approve Development Application SPP-17-00030 for the reasons listed below and subject to the conditions listed in attachment 7:
 - a The proposed multi dwelling housing development is permissible with consent in the R3 Medium Density Residential zone in which it is located.
 - b The development is in line with the desired future character of the area and would not result in any significant adverse impacts on the amenity of the locality.
 - c The proposal will assist the delivery of housing options to the area by introducing a range of 2, 3, 4 and 5 bedroom dwelling options.
- 2 Council officers notify the applicant of the Panel's decision.



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