

Assessment report to Sydney Central City Planning Panel

Panel reference: 2017SWC117

Development Application

DA number	SPP-17-00028	Date of lodgement	13 September 2017
Applicant	Metro Award Tallawong Pty Limited		
Owner	CDG Pty Limited		
Proposed development	Stage 1 Concept Development Application for 9 building envelopes consisting of 5 storey residential flat buildings and 1 neighbourhood shop, 2 basement car parking levels, new public roads and public domain improvements		
Street address	34 and 42 Tallawong Road, Rouse Hill (Lots 68 and 69, DP 30186)		
Notification period	17 to 31 October 2017	Number of submissions	None

Assessment

Panel criteria	Capital investment value (CIV) over \$20 million (DA has CIV of \$244 million).
Section 7, SEPP (State and Regional Development) 2011	

Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • 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 • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • Blacktown City Council Growth Centre Precincts Development Control Plan 2018 • Central City District Plan 2018
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Report prepared by	Holly Palmer, Senior Project Planner
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Report date	1 November 2018
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Recommendation	Approve, subject to the conditions listed in attachment 9.
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Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning map and height of buildings map extracts
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans
- 6 Assessment against planning controls
- 7 Applicant's Clause 4.6 request
- 8 Council assessment of Clause 4.6 request
- 9 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

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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:
 - the proposed building envelopes exceed the maximum permitted building height
 - the half width road along the southern boundary is no longer required
 - suitability of the building envelopes
 - the proposal seeks to remove all trees on the site
 - the proposal includes a temporary on-site detention basin which affects Building I.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 Assessment of the application has also been undertaken in line with Clause 7 of State Environmental Planning Policy No. 55 (Remediation of Land) and we are satisfied that the site can be made suitable for residential development, subject to conditions.
- 1.4 The application is considered satisfactory when evaluated against section 4.22 and section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.5 This report recommends that the Panel support the Clause 4.6 request to vary a development standard in this instance. The proposal provides a built form scale of 5 storeys as viewed from the public domain, which is consistent with the scale anticipated by the Precinct Plan.
- 1.6 This report recommends that the Panel approve the application subject to the conditions listed in attachment 9.

2 Location

- 2.1 The site is located within the suburb of Rouse Hill. It is within the Riverstone East Precinct of the North West Growth Area as identified by State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).
- 2.2 This site and the land to its north is zoned R3 Medium Density Residential with a permitted building height of 16 m.
- 2.3 West of the site is the railway stabling yard which services the Sydney Metro Northwest rail link. The rail link is currently under construction to the south and south-east of the site.
- 2.4 The Cudgegong Road (Area 20) Precinct Plan adjoins the site to the east and includes the future Local Centre and Tallawong Railway Station (under construction) with a permitted building height of 26 m. The land to the east and south-east is zoned R3 Medium Density Residential, B2 Local Centre and B4 Mixed Use.
- 2.5 The location of the site is shown in attachment 1.

3 Site description

- 3.1 The 4.046 hectare site is generally rectangular in shape. It slopes up to 13 m from south-east to north-west. The site has road frontage to Tallawong Road.
- 3.2 The site contains 3 existing single storey dwellings and associated sheds and driveways.
- 3.3 The site consists of formal and informal vegetation in the form of grass, shrubs and trees that reflect its semi-rural use. The majority of the western and southern parts of the site are grassed and the southern area has been cleared of all remnant vegetation. Small groups of isolated trees are located along the shared boundary between 34 and 42

Tallawong Road, and towards the eastern boundary of 42 Tallawong Road. The trees have been identified as being part of the Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest and extend onto the adjoining properties to the north and east.

- 3.4 There are 3 dams on the site - 2 are located on the southern boundary within the cleared land and the other is at the northern portion of the site within an area of remnant vegetation.
- 3.5 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 On 22 August 2016, the site was rezoned to R3 Medium Density Residential under the Growth Centres SEPP. The zoning and height of building maps for the site and surrounds are at attachment 3.
- 4.2 On 12 September 2017, the proponent lodged Planning Proposal LEP-17-0003 seeking to amend the Growth Centres SEPP to increase the height of building control to 40 m. In response to concerns raised by our Strategic Planning Section about this height, the proponent submitted a revised Planning Proposal in May 2018 requesting an amendment to the maximum building height of 26 m which is consistent with the height limits that apply to the future local centre to the east. The proponent has also requested an amendment to the Development Control Plan (DCP) to delete a half width road along the southern boundary of the site to resolve a discrepancy between the Riverstone East and Area 20 Indicative Layout Plans. Specifically, a half width road is shown on the Riverstone East Indicative Layout Plan (ILP) affecting the subject land, but the other half of the road was not shown on the Area 20 ILP which predated Riverstone East. This discrepancy between the Precinct Plans must be rectified.
- 4.3 On 16 August 2018, the Applicant lodged a DA on this site for demolition of existing structures and staged subdivision into 4 residential lots with associated tree removal, earthworks, construction of new roads and drainage infrastructure. This DA is currently under assessment, and is consistent with the subject DA, including our requirement to delete the half road along the southern boundary, as discussed below and in Section 7.2.
- 4.4 On 31 September 2018, the Blacktown Local Planning Panel considered a report prepared by our Strategic Planning Section in line with the Local Planning Panels Direction – Planning Proposals, issued by the Minister for Planning on 23 February 2018 under section 9.1 of the Environmental Planning and Assessment Act 1979.
- 4.5 On 31 October 2018, and following advice from the Blacktown Local Planning Panel, a report was considered by Council that recommended that a Planning Proposal be prepared and forwarded to the Department of Planning and Environment for a Gateway Determination, to increase the height of building control on the subject land to 26 m. Council adopted the officer recommendation.
- 4.6 The proposed amendment to the Indicative Layout Plan road pattern, to delete the half width road along the southern boundary of the site, has been resolved to occur under the delegated authority of the Director Planning and Development and will proceed to public exhibition.
- 4.7 Our Strategic Planning Section states that the road pattern amendment is justified on the following grounds:
 - The local road is not required for traffic circulation or site access.
 - The landowner of the adjoining site on which half of the proposed road is located, Transport for NSW, has confirmed it does not require a road in this location and will not construct part of it.

- Retention of the road requires an intersection to be located too close to the point where the main east-west road providing access to Tallawong Station and the local centre intersects with Tallawong Road.
- 4.8 It is noted that the Concept DA is not reliant on physical access to the half width road, as access to basement car parking is from the east – west road that goes through the middle of the site.
- 4.9 Given that the deletion of this half road is intended by Council, a condition of consent is recommended to be imposed to delete this road from this application. A publicly accessible pathway and landscaping will be required to be installed in place of the road.

5 The proposal

- 5.1 The Development Application has been lodged by Metro Award Tallawong Pty Limited for a Stage 1 Concept DA under section 4.22 (formerly section 83B) of the Environmental Planning and Assessment Act 1979. The Applicant seeks concept approval for the land uses and building envelopes only, comprising:
- 9 building envelopes including residential flat buildings and up to 630 apartments and 1 neighbourhood shop
 - 771 car parking spaces in 2 basement levels
 - new public roads
 - public domain improvements.
- 5.2 No physical works are proposed in this application.
- 5.3 Separate Development Applications will be submitted for the detailed design of the buildings and proposed works, including the demolition of existing structures, tree removal, site preparation works, construction and occupation of the development, ground level and rooftop communal open space areas and associated fencing, landscaping, infrastructure works and subdivision.
- 5.4 Attachment 4 sets out further details of the proposal, including the Clause 4.6 request to exceed the 16 m height of buildings development standard by up to 3.7 m or 23%. The height exceedance relates to parts of the buildings including the roofline and parapets, some portions of the habitable room areas, rooftop plant and equipment and services to enable access to rooftop communal open space areas (for Buildings A, E and F).
- 5.5 Attachment 5 shows the proposed concept plans.

6 Assessment against planning controls

- 6.1 A full assessment of the Development Application against the relevant section 4.15(1)(a) matters is at attachment 6.

7 Key issues

7.1 Proposed buildings exceed the maximum permitted building height

- 7.1.1 The DA seeks approval for 5 storey buildings across the entire site with an overall height of 16.31 m to 19.7 m as measured from the future ground level of the new public roads. The maximum height of buildings permitted on this site is 16 m and the Applicant seeks to exceed this height limit by up to 3.7 m or 23%.
- 7.1.2 The Applicant has submitted a written Clause 4.6 request (see attachment 7) to justify that compliance with the height development standard is unreasonable and unnecessary in this instance.

7.1.3 The Applicant's justification for the proposed variations to the maximum height limit are due to:

- The varied ground levels throughout the site, including a change in levels of up to 13 m with the high point at the south-east portion of the site and lower points at the north-west portion of the site and along the frontage to Tallawong Road.
- Changes to the finished ground levels to accommodate road grades, such as raising levels by up to 1.6 m to achieve acceptable road grades and stormwater requirements. The proposed building envelopes relate to the road levels to provide an appropriate relationship between the future built form and the public domain.
- All street elevations being 5 storeys, which is commensurate with expectations for built form within the 16 m height limit.
- The height exceedance generally accommodating the parapet, roof slab and plant and lift overruns.

7.1.4 The Applicant also argues that the variation should be supported given the parts of the development which exceed the height limit do not adversely affect the provision of solar access to surrounding properties.

7.1.5 Our assessment of the adequacy of the request to vary the development standard is at attachment 8. It identifies that there are sufficient environmental planning grounds to justify varying the development standard because the variation will not have unreasonable impacts on neighbouring properties or the character of the area. Also, the variation to the height limit will result in a better planning outcome for future residents by consistently providing the presentation of a 5 storey development throughout the site, enabling rooftop access to communal open space areas and provision for rooftop plant and equipment. The stepped form of the buildings also provides a height offset throughout the site, with some portions of the building above and below the height plane, which results in a balanced built form.

7.1.6 The Clause 4.6 variation request is considered reasonable and well founded in this particular circumstance and is recommended for support to allow flexibility in the application of the development standard.

7.2 The road along the southern boundary is required to be deleted

7.2.1 As explained in Section 4, Council has commenced the process to amend the Indicative Layout Plan to delete the half road along the southern boundary of the site. The DA is not reliant in any way upon this half width road. Given that the deletion of this road is being progressed by Council, a condition is recommended to be imposed to delete this road from the Concept DA once the DCP amendment has been finalised. This will mean that the future DAs to be submitted for the site will reflect this change. To provide benefit to the future occupants of this site and local community, a publicly accessible pathway and landscaping will be required to be installed in its place.

7.3 Suitability of the building envelopes

7.3.1 The concept building envelopes in this application provide a suitable and carefully considered design approach which is responsive to the constraints of this site and its surrounds. The building envelopes are capable of accommodating the proposed residential and neighbourhood shop land uses in a cohesive and compatible manner.

- 7.3.2 The streetscape outcome which is expected from the proposed building envelopes is capable of being consistent with the future desired character of this locality and is not dissimilar to recently approved residential flat buildings in the area. The proposal is capable of providing a modern design which is a positive addition in this transitioning locality.

7.4 Tree removal

- 7.4.1 The proposal seeks to remove all trees on the site. The application is accompanied by an Arboricultural Development Impact Assessment Report by Birdtree Consultancy dated August 2017, which considers the removal of 122 trees on the site given their condition and impact of the proposed development.
- 7.4.2 Fifteen of these trees are recommended for removal because they are dead with no visible habitat, are in poor and declining condition, or have decay and cavity within the trunk which places these trees at increased risk of failure. The site has also been used for grazing horses and as a result a large number of the trees have significant damage to the full extent of the circumference of the trunk. These trees have been effectively ringbarked and have low retention value.
- 7.4.3 The balance of the trees are encroached upon by the proposed construction, earthworks and roadworks. Consequently, it is not viable to retain these trees and they will need to be removed. Refer to the full details at attachment 6.
- 7.4.4 Council's position is that any assessment of trees is to ensure that, as far as practicable, as many trees as possible within a development site are retained. However, the condition of the trees and impact of the proposed development does not warrant their retention. It is also noted that the proposed deletion of the ILP road along the southern boundary creates the opportunity for additional landscaping, including large trees, which will be managed by conditions.
- 7.4.5 Overall, the proposal satisfies the objective of Clause 5.9 of the Growth Centres SEPP dealing with the preservation of trees or vegetation, being to 'preserve the amenity of the area through the planting of new trees and other vegetation', by providing landscaping around the perimeter of the development and in the internal courtyard areas. It is also recommended that a condition is imposed requiring future detailed Development Applications to provide at least 50% of the trees and vegetation as native species.

7.5 The proposal includes a temporary on-site detention basin which affects Building I

- 7.5.1 The proposal includes management of upstream catchments to the east, disposal of stormwater downstream to the north-west, and a temporary on-site detention basin at the north-western portion of the site, which affects proposed Building I. The construction of Building I will be permitted to commence after the regional stormwater management facilities are constructed and operating, and the temporary on-site detention is no longer required. This will be addressed by conditions of consent.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers within the locality between 17 and 31 October 2017. The Development Application was also advertised in the local newspapers, including the Blacktown City Sun, and a sign was erected on the site.
- 8.2 No submissions were received.

9 External referrals

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

Authority	Comments
Transport for NSW: Sydney Metro Northwest	Acceptable. Transport for NSW, Sydney Metro Delivery Office, also noted that Planning Proposal LEP-17-0003 separately seeks approval for additional height on this site. Sydney Metro would support the provision of through site links as part of the Planning Proposal to improve precinct outcomes and pedestrian permeability to the station. As discussed in Section 7.2, a condition is recommended to replace the half road along the southern boundary of the site with a publicly accessible pathway and landscaping.
Sydney Trains	Acceptable. Concurrence provided, subject to a condition requiring any Stage 2 Development Application to demonstrate that all structures are designed, constructed and maintained so as to avoid any damage or other interference to the proposed development which may occur as a result of air-borne noise, ground-borne noise and vibration effects that may emanate from the future rail corridor construction and rail operations and Sydney Metro Rail Facility.
Roads and Maritime Services	Acceptable
Sydney Water	Acceptable, subject to a condition requiring all Stage 2 Development Applications to provide details regarding the diversion of the existing Sydney Water sewer line. This is to be done in line with the relevant requirements of Sydney Water.

10 Internal referrals

- 10.1 The Development Application was referred to the internal sections of Council and is considered acceptable.
- 10.2 Our City Architect carefully evaluated the proposal and advises that the general concept and site configuration is strong in principle. The following comments are also provided:
- As shown on the Building Articulation Plan, Drawing No. SK1.110, the facades of Buildings B, C, F and E are to feature careful detailing/articulation to reduce the perceived length of the facades, including recesses. This will be dealt with by a condition of consent.
 - As shown on the Typical Edge Condition Section Plan, Drawing No. SK1.100, the basement structures are to be suitably treated to ensure a suitable transition is provided between the ground floor apartment and the adjacent public footpath. This will be dealt with by a condition of consent.

11 Conclusion

- 11.1 The proposed development has been assessed against all 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 suitable for the proposed development subject to conditions.

12 Recommendation

- 1) Uphold the variation to the height of buildings development standard in Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 using Clause 4.6 for the following reasons:
 - a) The proposal provides certainty as to the maximum building height, massing and density on this site and the request is well founded and warrants support.
 - b) The proposal provides a consistent built form scale of 5 storeys as viewed from the public domain which is consistent with the scale anticipated by the Precinct Plan, provides a stepped built form which offsets portions of the buildings above and below the height plane and accommodates rooftop plant and equipment to properly service the development.
 - c) Adherence to the height standard is unnecessary in this instance as no adverse impacts will result from the minor variations to the Building Height map.
- 2) Approve Stage 1 Concept Plan DA SPP-17-00028 for the reasons listed below and subject to the conditions listed at attachment 9:
 - a) The proposal is in the public interest.
 - b) The site is considered suitable for the proposed development and the concept design meets our requirements.
 - c) The Clause 4.6 variation is acceptable and consistent with similar approvals in and around the Precinct.
- 3) Council officers notify the Applicant of the Panel's decision.


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