

Assessment against planning controls – section 4.15, summary assessment and variations to standards

1 Environmental Planning and Assessment Act 1979

a. Section 4.22 'Concept Development Applications'

Summary comment	Complies
This application is lodged under section 4.22 Concept Development Applications (DAs) under the Environmental Planning and Assessment Act 1979. As permitted by Clause 5, our consideration under section 4.15 of the Act as to the likely impact of the development the subject of the concept DA is limited to the likely impact of the concept proposal (this application does not include the first stage of development) and does not consider the likely impact of the carrying out of development that may be the subject of subsequent DAs.	Yes

b. Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of: (i) Any environmental planning instrument (EPI)	The proposal is considered to be consistent with the relevant EPIs, including SREP No. 20 – Hawkesbury-Nepean River, SEPP (State and Regional Development) 2011, SEPP (Infrastructure) 2007, SEPP BASIX 2004, SEPP No. 55 – Remediation of Land, SEPP No. 65 – Design Quality of Residential Apartment Development and the 9 'design quality principles' of SEPP 65, the Growth Centres SEPP 2006 and the Central City District Plan 2018.	Satisfactory
	The proposed residential flat buildings and neighbourhood shop developments are permissible land uses with consent in the R3 Medium Density Residential zone and satisfy the zone objectives outlined under the Growth Centres SEPP.	Satisfactory
	The proposal is generally consistent with the Blacktown Growth Centre Precinct Plan for Riverstone East, with the exception of the height of buildings development standard. The maximum permitted building height is 16 m. The proposal is for a building height exceedance ranging from 310 mm to 3.7 m. The maximum breach to this development standard is 3.7 m or 23%. The applicant has submitted a request to vary this development standard under Clause 4.6 of the Growth Centres SEPP. The proposal provides certainty that the development is consistent with the desired future character of the Precinct and offers a high level of amenity for future occupants. Refer to Section 7 of the Assessment Report for further details.	No, but the proposed building heights are acceptable in this instance

(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	Prior to the lodgement of this application, a draft amendment to the Growth Centres SEPP 2006 was exhibited by the Department of Planning and Environment in May 2017, referred to as the 'North West Draft Exhibition Package.' This exhibition was undertaken to coincide with the release of the Land Use and Infrastructure Implementation Plan (the purpose of which is to guide new infrastructure investment, make sure new developments do not impact on the operation of the new Western Sydney Airport, identify locations for new homes and jobs close to transport, and coordinate services in the area). A key outcome sought by the Department of Planning and Environment (DPE) is the establishment of minimum and maximum densities for all residential areas that have been rezoned under the SEPP (i.e. density bands). Currently the planning controls nominate only a minimum density. This proposal will have a significant influence on the ultimate development capacity (i.e. yield) of the precincts. The density bands for land zoned R3 Medium Density Residential in the Blacktown Growth Centre 'Riverstone East' Precinct are proposed to be: • Minimum of 55 dwellings per hectare which equates to 222 dwellings (currently 45 dwellings per hectare which equates to 182 dwellings). • Maximum of 100 dwellings per hectare which equates to 404 dwellings (currently no maximum). This proposal is for 630 apartments, which equates to 155 dwellings per hectare. This results in 226 (56%) more apartments being provided than anticipated by the exhibited maximum density band.	Not a matter of consideration as this is a draft amendment which is not certain or imminent of becoming law
(iii) Any development control plan (DCP)	The Growth Centre Precincts DCP applies to the site. The proposed development is compliant with the numerical controls established under the DCP. The proposal is also consistent with the Indicative Layout Plan, with the exception of a minor re-alignment of Road 2 (which travels east-west and is centrally located) and the deletion of half width Road 3. Road 2 is shown on the Indicative Layout Plan to be angled to the north where it connects to Tallawong Road. The proposal seeks to angle new Road 2 to the south to be perpendicular to Tallawong Road. The proposal provides a safe design for its connection to the Collector Road (Tallawong Road) and is supported as it is within the intent of the Indicative Layout Plan. Road 3 is required to be deleted. The Indicative Layout Plan in the DCP is currently being amended under delegated authority, as discussed in Section 7.2 of the Assessment Report.	Yes Satisfactory
(iiia) Any Planning agreement	There are no planning agreements associated with this application.	N/A
(iv) The regulations	The DA is compliant.	Yes

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	Under section 4.22(5) of the Act, and with regard to the likely impact of the development the subject of this concept proposal, it is considered that the likely impacts of the concept development, including traffic, parking and access, design, amenity, bulk and scale, overshadowing, noise, privacy, waste management, acoustic impacts, flora and fauna, salinity, contamination and stormwater management have been satisfactorily addressed. A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties. In view of the above it is believed that the proposed concept development will not have any unfavourable social, economic or environmental impacts.	Yes
c. The suitability of the site for the development	The subject site is zoned R3 Medium Density Residential with a 16 m building height limit under the Growth Centres SEPP. Residential flat buildings and neighbourhood shops are permissible with development consent. The site has an area and configuration that is suited to this form of development. The design solution is based on sound site analysis and responds positively to the different types of land uses adjoining the site. The site is located in close proximity to Tallawong Railway Station (under construction) and the future Local Centre. The proposal is consistent with the Blacktown Growth Centre 'Riverstone East' Precinct Plan.	Yes
d. Any submissions made in accordance with this Act, or the regulations	The application was exhibited for comment for a period of 14 days. No submissions were received during the notification period.	Satisfactory
e. The public interest	It is considered that no adverse matters relating to the public interest arise from this concept proposal. The proposal provides high quality housing stock and provides for housing diversity in the Blacktown Growth Centre 'Riverstone East' Precinct. Detailed consideration of the impact of the development on the public interest will be undertaken in the assessment of future detailed DAs as permitted by section 4.22 of the Act.	Yes

2 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

Summary comment	Complies
The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Growth Centres SEPP.	Yes

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

Summary comment	Complies
The Sydney Central City Planning Panel (SPP) is the consent authority for all development with a capital investment value (CIV) of over \$20 million (being the CIV applicable for applications lodged but not determined prior to 1 March 2018 under Clause 23 transitional provisions of this SEPP). As the DA has a CIV of \$244 million, Council is responsible for the assessment of the DA and determination of the application is to be made by the Panel.	Yes

4 State Environmental Planning Policy (Infrastructure) 2007

Summary comment	Complies
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 was referred to RMS, who found the development acceptable. The proposal is accompanied by a DA Acoustic Report prepared by Acoustic Logic dated August 2017. This report considers the impact of noise on the proposed development from: • Traffic noise impacts from Tallawong Road and Schofields Road. • Future operational noise from the Sydney Metro Northwest which is a distance of 170 m to the southern façade of proposed Buildings A, B, C and D. • Future operational noise from the railway stabling yard. Based on the activities undertaken at the Auburn Reliance Rail Maintenance Facility Works, the anticipated activities include: ○ shunting tractor ○ 3 and 5 tonne forklifts ○ suburban train alternator at idle ○ train horn whistle test for town location ○ suburban train compressor at idle ○ 15 tonne crane during operation ○ overhead 20 tonne crane during operation ○ train approaching facility ○ wheel profiling unit ○ train wash unit. In order to satisfy the requirements of Clause 87 and Clause 102 of the Infrastructure SEPP, the report recommends that the construction of the development includes thick glazing with acoustic seals for acoustic attenuation, external roof constructions using concrete or masonry elements and an acoustic grade sealant for any gaps, concrete or masonry external wall construction and an acoustic grade sealant for any gaps, entry doors via internal corridors and mechanical ventilation to habitable spaces along the southern, western and eastern facades. Detailed acoustic review should be undertaken at Construction Certificate stage to determine acoustic treatments to control noise emissions to satisfactory levels. Satisfactory levels will be achievable through appropriate plant selection and location and, if necessary, standard acoustic treatments such as duct lining, acoustic silencers and enclosures.	Yes

Detailed consideration of the potential noise and vibration impact from plant and equipment which service the buildings will be undertaken in the separate detailed DAs. Conditions of consent are recommended to be imposed regarding noise mitigation measures in building design to ensure the proposed dwellings satisfy the relevant Australian Standards and NSW Environment Protection Authority (EPA) Industrial Noise Policy, and to ensure a suitable level of amenity is maintained.	
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5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Summary comment	Complies
As permitted by section 4.22(5) of the Act, detailed consideration with regard to SEPP BASIX 2004 will be undertaken in the separate detailed DAs.	

6 State Environmental Planning Policy No. 55 – Remediation of Land

Summary comment	Complies
SEPP 55 aims to 'provide a State-wide planning approach to the remediation of contaminated land'. Clause 7 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent. This application is accompanied by a Stage 1 Preliminary Site Investigation prepared by SLR Global Environmental Solutions dated 29 August 2017 and a Stage 2 Detailed Contamination Assessment prepared by Geotechnique Pty Ltd dated 17 April 2018. The site has historically been used for rural, rural residential and market garden purposes. The assessments conclude that the site can be made suitable for the proposed residential use subject to certain requirements prior to site preparation and earthwork. The recommendations of the Stage 1 and Stage 2 contamination assessments will be imposed as conditions of consent to ensure that the requirements of clause 7 of SEPP 55 will be considered and carried out in the future DAs.	Yes

7 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

Summary comment	Complies
As permitted by section 4.22 (5) of the Act, detailed consideration with regard to SEPP 65 will be undertaken in the separate detailed DAs. The development is considered capable of satisfying the 9 design quality principles and assessment against the relevant design concepts under SEPP 65 and the Apartment Design Guide. This will be considered in detail in the separate DAs at the detailed design stage of the development.	Not applicable for this Concept DA

8 State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Summary comment	Complies
As permitted by section 4.22 (5) of the Act, detailed consideration with regard to the Growth Centres SEPP will be undertaken under the separate detailed DAs.	Yes
Proposed height of building variation This Stage 1 Concept DA seeks approval for building envelopes which exceed the 16 m maximum building height. The proposal is for a building height ranging from 16.31 m to 19.7 m as measured from the future ground level of the new public roads. The maximum breach to the development standard is 3.7 m, or 23%. The Applicant has submitted a request to vary this development standard under Clause 4.6 of the Growth Centres SEPP. Despite this height exceedance, the proposal reflects a 5 storey development as viewed from the public domain as anticipated by the Precinct Plan, which is compatible with the emerging scale of development in the locality. The proposal provides a better planning outcome by securing a building footprint which offers an appropriate level of amenity for its future occupants and the surrounding properties and is supported. Refer to Section 7 of the Assessment Report for further details.	No, but variation is supported
Tree removal With regard to Clause 5.9 Preservation of trees or vegetation, the proposal seeks to remove all trees from the site. The application is accompanied by an Arboricultural Development Impact Assessment Report by Birdtree Consultancy dated August 2017. It considers the removal of 122 trees on the site given their condition and the impact of the proposed development as follows: • 4 trees are dead with no visible habitat and are recommended for removal (trees 11, 37, 67 and 81). • 3 trees are in poor and declining condition and are recommended for removal (trees 63, 101 and 122). • 5 trees have decay and cavities within the trunk which places these trees at increased risk of failure. In consideration of the increased hazard posed to the future development, these trees are recommended for removal (trees 36, 66, 109, 115 and 118). • 3 trees have bark defects present at a primary junction placing these trees at increased risk of failure at this point. In consideration of the increased hazard posed to the future development, these trees are recommended for removal (trees 82, 86 and 96). • The site has been used for grazing horses. 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. This damage to the trunk will have a limiting effect on the ability of the trees to transport nutrients from roots to leaves and will have a significant impact on the health and condition of these trees in the short to medium term. As a consequence, these trees have low retention value. • The remaining trees are encroached upon by the proposed construction, earthworks and roadworks. These trees will not be viable to be retained and will be required to be removed.	Assessed as satisfactory

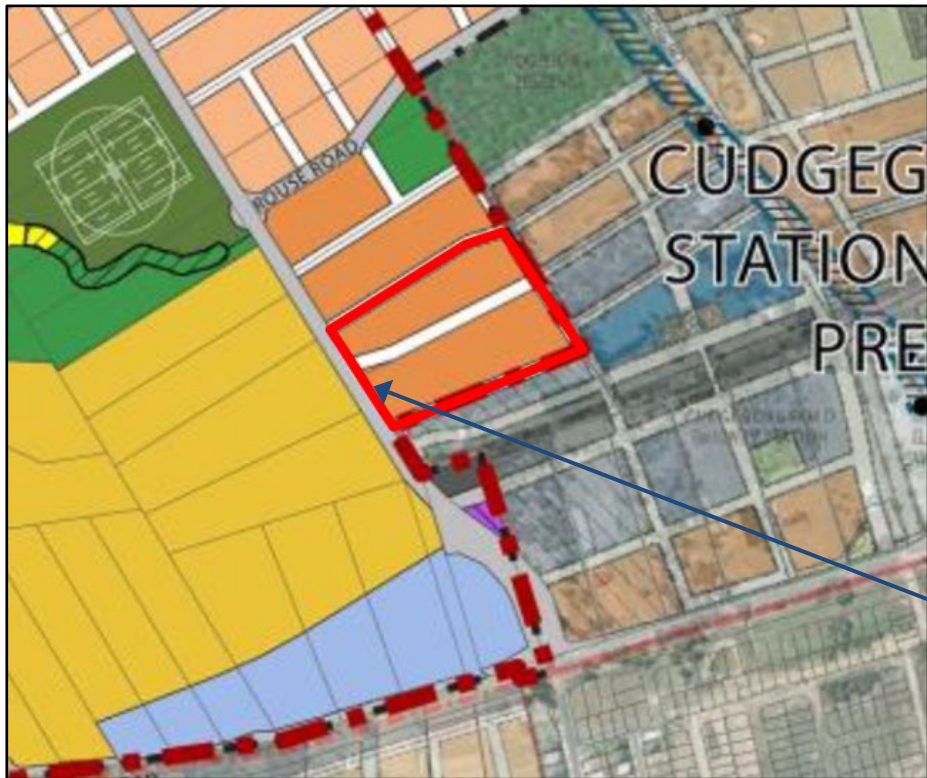
Council's position is that we should ensure that, as far as practicable, as many trees as possible within a development site are retained. However, as evidenced above, the condition of the trees and impact of the proposed development do not warrant their retention. It is also noted that the intended deletion of the ILP road along the southern boundary creates the opportunity for additional landscaping, including large trees, which will be managed by conditions. Overall, the proposal satisfies the objective of the clause 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 the internal courtyard areas. It is recommended a condition is imposed requiring future detailed DAs to provide at least 50% of their trees and vegetation as native species.	
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9 Central City District Plan 2018

Summary comment	Complies
While the Act does not require consideration of District Plans in the assessment of Development Applications, the DA is consistent with the following overarching planning priorities of the Central City District Plan: Liveability • Improving housing choice • Improving housing diversity and affordability • Improving access to jobs and services • Creating great places.	Yes

10 Blacktown City Council Growth Centre Precincts Development Control Plan 2018 (Growth Centre DCP)

Summary comment	Complies
As permitted by section 4.22 (5) of the Act, detailed consideration with regard to the Growth Centre DCP will be undertaken within the separate detailed DAs. The proposal is considered to be consistent with the DCP in accommodating a medium to high density residential development. Conditions of consent are recommended to be imposed requiring the separate detailed DAs to demonstrate compliance with the DCP, with particular regard to salinity and soil management, Aboriginal and European heritage, bushfire hazard management to ensure any development is consistent with Planning for Bushfire Protection 2006, site contamination and the treatment to Tallawong Road, being a collector road and a main off-road shared pedestrian and bicycle pathway. Proposed new public roads are consistent with the Indicative Layout Plan, with the exception of a minor re-alignment of Road 2 (which travels east-west and is centrally located). As shown in Figure 1 below, Road 2 is shown on the Indicative Layout Plan to be angled to the north where it connects to Tallawong Road. Figure 2 shows the angle of Road 2 to the south to be perpendicular to Tallawong Road. The proposal provides a safe design for its connection to Tallawong Road and is supported as the intent of the Indicative Layout Plan is achieved in a safe manner.	Satisfactory



Location of proposed minor realignment to Road 2 in the Indicative Layout Plan.

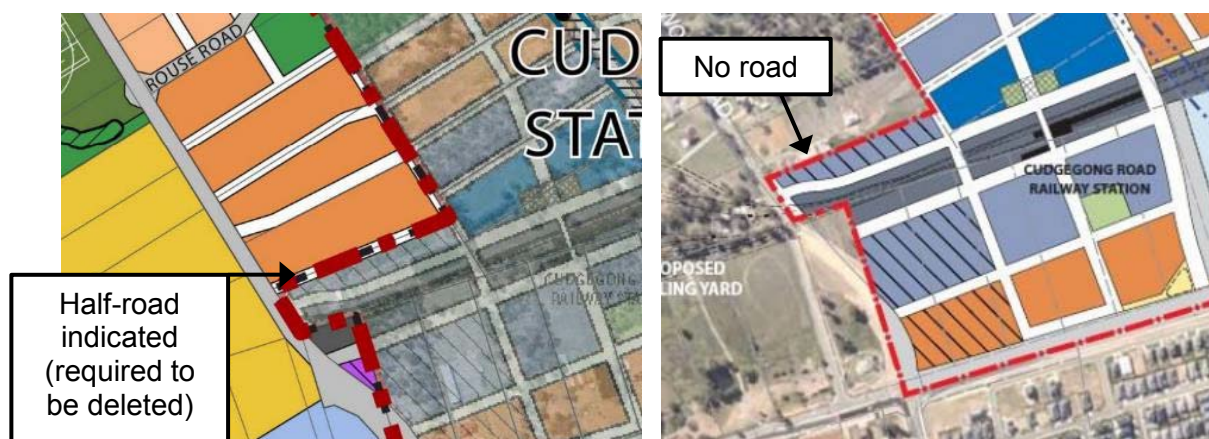
Figure 1: Extract from the Riverstone East Precinct plan showing the east-west new public road located in the subject site is angled to the north at its western end near Tallawong Road.



Location of proposed realignment to Road 2.

Figure 2: Aerial view of the subject site demonstrating that the proposed new east-west public road is angled to be perpendicular to Tallawong Road, being a very minor variation to the Indicative Layout Plan.

As explained in section 7.2 of the Assessment Report, the half road along the southern boundary of the site is to be deleted by separate action by Council, as shown in Figure 3 below.



Riverstone East Indicative Layout Plan

Area 20 Indicative Layout Plan

Figure 3: Extract of the Riverstone East ILP (left) indicating the half road along the southern boundary of the site, and Area 20 ILP (right) without the road