

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

1 Environmental Planning and Assessment Act 1979

a. Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of:		
(i) Any environmental planning instrument (EPI)	<p>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 Growth Centres SEPP 2006.</p> <p>The proposed development is defined as a shop top housing development and is a permissible land use within the R3 Medium Density Residential zone and satisfies the zone objectives outlined under the Growth Centres SEPP.</p> <p>The proposed development is compliant with the controls of the Growth Centres SEPP, with the exception of a variation to the height of the building. The maximum permitted building height is 12 m. The proposal is for a building height of up to 15.7 m. The maximum breach to this development standard due to a lift overrun is 3.7 m, or 30.8%. The Applicant has submitted a request to vary this development standard under Clause 4.6 of the Growth Centres SEPP. Justifiable reasons have been provided for this non-compliance.</p>	<p>Satisfactory</p> <p>Satisfactory</p> <p>No, but a variation is supported in this instance.</p>
(ii) any proposed instrument that is or has been the subject of public consultation under the Act	<p>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).</p> <p>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.</p>	<p>Not a matter of consideration for this application as this is a draft amendment which is not certain or imminent.</p>

Heads of Consideration	Comment	Complies
	<p>The density bands for land zoned R3 Medium Density Residential in the Precinct are proposed to be:</p> <ul style="list-style-type: none"> • Minimum of 25 dwellings per hectare, which equates to 16 dwellings on this site (currently 25 dwellings per ha). • Maximum of 35 dwellings per ha, which equates to 22 dwellings on this site (currently no maximum). <p>This site is in the density band maximum of 35 dwellings per hectare and this proposal is for 117 apartments over 0.6239 ha (gross area inclusive of half width roads), which equates to 187 dwellings per hectare.</p> <p>Although the proposal is inconsistent with the maximum dwelling density exhibited, there is no certainty or imminence to these amendments coming into effect, and therefore this is not a matter for consideration in this application.</p> <p>Further, the Sydney Planning Panel has dealt with other DAs in the North West Growth Area that also do not comply with the exhibited (but not applicable) density bands. To be consistent, this DA should be dealt with in a similar way.</p>	
(iii) Any development control plan (DCP)	The Growth Centres DCP applies to the site. The proposed development is compliant with the numerical controls established under the DCP.	Yes
(iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4	No planning agreement has been entered into or is contemplated.	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	<p>It is considered that the likely impacts of the development, including traffic, parking and access, design, bulk and scale, overshadowing, noise, privacy, waste management, flora and fauna, salinity, contamination and stormwater management have been satisfactorily addressed.</p> <p>A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties.</p> <p>In view of the above, it is believed that the proposed development will not have any unfavourable social, economic or environmental impacts.</p>	Yes
c. The suitability of the site for the development	The subject site is zoned R3 Medium Density Residential with a 12 m building height limit under the Growth Centres SEPP. The proposed shop top housing is permissible with consent along with the associated subdivision and road construction.	Yes

Heads of Consideration	Comment	Complies
	The site is surrounded by other residential properties with the same zoning to the north, south, east and west and a public recreation area to the south-east. The development is therefore 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. Accordingly, the site is considered to be suitable for the development.	
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	The proposal will assist in delivering higher density housing options in the area by introducing a range of apartment dwellings. The shops proposed will be convenient in providing services directly to the increased population that will result from this development and other residential developments in the immediate area. They will be well located along Tallawong Road for pedestrians to access on route to and from Tallawong Station. Due to the minimal environmental impact of the development and its socio-economic benefits, the proposal is considered to be compatible with the public interest.	Yes

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

Summary comment	Complies
<p>The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Growth Centres SEPP.</p> <p>The development generally complies with the development standards and controls. There are minor variations with respect to building height, however the proposed development has demonstrated consistency with the relevant objectives and represents a site responsive development.</p>	Yes

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

Summary comment	Complies
<p>The Sydney 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).</p> <p>As the DA has a CIV of \$22,568,948, Council is responsible for the assessment of the DA and determination of the application is to be made by the SPP.</p>	

4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Summary comment	Complies
The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification. A BASIX Certificate was submitted with the Development Application in accordance with the provisions of this SEPP. The BASIX Certificate demonstrates that the proposal complies with the relevant sustainability targets and will implement those measures required by the certificate. This will be conditioned in any consent granted.	

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

Summary comment	Complies
<p>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.</p> <p>A Stage 1 Preliminary Site Assessment, prepared by NG Child & Associates, has been submitted as part of the application. The findings of the assessment indicate from the 21 soil samples tested over the entire site that the underlying soils at the site are not contaminated and that soil quality at the site is appropriate for the residential development proposed. Therefore, the site is considered to be suitable in its current state for the proposed development. In the event of any unexpected finds, appropriate conditions have been included.</p>	

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

Summary comment	Complies
<p>SEPP 65 applies to the assessment of Development Applications for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.</p> <p>Clause 28 and 30(2) of SEPP 65 requires a consent authority to take into consideration:</p> <ul style="list-style-type: none"> advice (if any) obtained from the design review panel design quality of the residential flat development when evaluated in accordance with the design quality principles the Apartment Design Guide (ADG). <p>We do not have a design review panel. However, the tables below provide comments on our assessment of the 9 design principles and details where the numerical guidelines of the Apartment Design Guide are not fully complied with.</p>	

6.1 Design quality principles

The development satisfies the 9 design principles of SEPP 65.

Principle	Control	Town Planning comment
1. Context and neighbourhood character	<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p>	<p>The site is located approximately 600 m to the north-east of the future Local Centre and Tallawong Railway Station (latter currently under construction). Proximity to the station and presence of a park to the west would respond well to the development and enhance the desirability of the site. The surrounding area is undergoing a major transformation given that the neighbouring zones are for medium density residential development. The proposal will therefore create a consistent character and integrate well with the future surrounding development.</p>
2. Built form and scale	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The built form, height and scale of the proposed development have been resolved by a thorough evaluation of the site's surrounding context, required setbacks, topography and environmental characteristics, with an emphasis on residential amenity that is in line with the neighbourhood's envisioned development character.</p> <p>A range of materials and aesthetics have been applied to the buildings to provide further visual interest and to break up the bulk and scale. The buildings are designed in a way that will maintain and enhance vistas along Tallawong Road and a view directly through the landscaped centre of the development is achieved through the 12 m building separations.</p> <p>As a result of the topography, the perceivable height of the buildings from Tallawong Road and the surrounding areas will be reduced. The buildings comply with the height limit except for plant and equipment located in the middle of the roofs and small portions of the roof parapets in the north-western corner of each building. The buildings have been appropriately articulated for massing that allows for cross ventilation and sunlight usage which will enhance energy efficiency across the development.</p>

Principle	Control	Town Planning comment
		The scale of the shops proposed is satisfactory since they will take up less than a quarter of the ground floor space of the buildings. They will integrate with the surrounding area being directly accessible to pedestrians using Tallawong Road by being located on the ground floor and by the shops facing towards the road.
3. Density	Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The proposed development is appropriate in terms of density. The surrounding area is undergoing a major transformation that will bring about increased population growth. The site will be served by new public transport infrastructure and community spaces that support a higher density of population. It is therefore considered that a suitable density can be easily sustained.
4. Sustainability	Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	The design of the development ensures that the development exceeds the minimum design criteria for solar access and natural cross ventilation. The proposal provides for a mix of unit types and sizes, contributing to housing diversity within the locality. It also provides for convenient shops to service the needs of the increasing population in the area. The proposal is supported by a BASIX Certificate. The commitments are incorporated into the design of the building. The proposal demonstrates satisfactory levels of sustainability, waste management and efficient use of energy and water resources. The buildings are orientated to allow for climate control by maximising solar access and cross ventilation.
5. Landscape	Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.	A landscape plan has been submitted with the proposal, which incorporates a variety of planting that contributes to the amenity of the development. Deep soil zones have been provided throughout the development that ensure sufficient planting can be achieved. Tallawong Road is proposed to be urban in character with large street trees in tree grilles with adjacent planters within the lot boundary that can also be used as seating, creating an interactive streetscape.

Principle	Control	Town Planning comment
	<p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The landscape design provides for suitable screening to adjoining properties, creates usable spaces for future residents and improves the overall quality of the development. Areas of outdoor landscaped recreation have been provided for residents. Open space areas throughout the development have been integrated with landscaping.</p> <p>A revised landscape plan has been included in the conditions of consent that will require particular species of street trees to be planted in 8 m intervals along Tallawong Road and the proposed new roads in accordance with the requirements of our Civil and Open Space Infrastructure team's requirements.</p>
6. Amenity	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The design of the proposal is considered to provide an acceptable level of amenity through a carefully considered spatial arrangement and layout.</p> <p>The proposal achieves a suitable level of internal amenity through providing appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas.</p> <p>The ADG guidelines for cross ventilation, solar access and depth of units are generally achieved or exceeded. There is a variety of unit layouts and sizes to suit a wide range of people.</p> <p>The landscaping provides numerous active and passive areas to contribute to the amenity, with activities for all age groups, such as a variety of seating areas, a pool, natural grass areas, BBQs, pergolas, children's play equipment, fitness equipment and public art.</p>
7. Safety	<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p>	<p>The proposal is considered to be satisfactory in terms of future residential occupants overlooking communal spaces while maintaining internal privacy. Public and private spaces are clearly defined and suitable safety measures are integrated into the development. The proposal provides suitable casual surveillance of the public domain.</p>

Principle	Control	Town Planning comment
	<p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The proposed orientation of the buildings, outlooks and provision of balconies provide natural casual surveillance opportunities of the public domain and common open spaces.</p> <p>Public and private spaces are clearly defined and suitable safety measures are integrated into the development.</p> <p>All pedestrian areas have been designed to provide clear sight lines. Obscured areas and alcoves have been avoided in the design of the public domain spaces and all lobbies are wide and brightly lit.</p> <p>All landscaped spaces and pedestrian paths within the site will be well lit and designed to maximise personal security.</p> <p>A camera surveillance system forms part of the design. Well-maintained security features have been provided to comply with Crime Prevention through Environmental Design factors. The NSW Police Force is satisfied with the contents of the Crime Prevention Through Environmental Design (CPTED) Report and NSW Police Check List that were submitted as part of the application, and have issued conditions that have been included in the consent.</p>
<p>8. Housing diversity and social interaction</p>	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>There is a variety of unit layouts and sizes to suit a wide cross-section of the community. It provides a mix of studio apartments, 1 bed, 2 bed and 3 bed units, accessible by lift from the lobby and car parking levels.</p> <p>This combination of units will encourage a healthy integration of different people and encourage a sense of community amongst them.</p> <p>This mix and density will support the presence of the train station and park/community spaces in the area by achieving the required residential population. Communal open space areas provided in front of the shops facing onto Tallawong Road will allow for interaction with pedestrians, customers and residents.</p>

Principle	Control	Town Planning comment
9. Aesthetics	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The proposed development is considered to be appropriate as well as visually interesting in terms of the composition of building elements, textures, materials, finishes and colours and reflect the use, internal design and structure of the resultant buildings. This distinct and contemporary design assists in setting a high quality standard for the transitioning character of this locality and creates a desirable streetscape.</p> <p>The landscaping will ensure the buildings are well integrated into their surroundings.</p>

6.2 Compliance with Apartment Design Guide (ADG)

Summary comment

We have assessed the application against the relevant provisions of the ADG and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other matters under the ADG.

ADG requirement		Proposal	Compliance
4B Natural ventilation	All habitable rooms naturally ventilated.	All habitable rooms will be naturally ventilated.	Yes
	Number of naturally cross ventilated units > 60%.	66.6%	Yes
	Depth of cross over apartments < 18 m.	Depths of up to 19 m provided.	No, but the minor non-compliance is considered acceptable
4F Common circulation and spaces	Open plan layouts that include a living, dining room and kitchen – maximum 8 m to a window.	Open plan layouts are provided. Depths of up to 8.6 m are provided.	No, but the minor non-compliance is considered acceptable
	For larger development – community rooms for owners meetings or resident use should be provided.	Not provided. However, extensive communal open space areas are provided. The proposal is considered to provide a high level of recreational and passive communal spaces, and the provision of a further community room is not considered necessary.	No. However, this is not considered necessary in the circumstances of this application given the generous communal open spaces being provided

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

Summary comment

We have assessed the DA against the relevant provisions and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other matters under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

7.1 General controls within main body of the SEPP

SEPP requirement		Proposal	Compliance
4.3 Height of buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	The maximum permitted building height is 12 m. The proposal is for a building height of up to 15.7 m. The maximum breach to this development standard is due to a lift overrun is 3.7 m, or 30.8%. Part of the roof parapet will be 73 centimetres above the height plane, but offset by a greater portion being 110 centimetres below the height plane. The Applicant has submitted a request to vary this development standard. Justifiable reasons have been provided for this non-compliance.	No, but a variation is supported in this instance

8 Central City District Plan 2018

Summary comment

Whilst 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
- Creating great places
- Contributing to the provision of services to meet communities' changing needs.

9 Blacktown City Council Growth Centre Precincts Development Control Plan 2016 (Growth Centre DCP)

Summary comment

We have assessed the DA against the relevant provisions and the table below only identifies where compliance is **not fully achieved**.

It is compliant with all other matters under the Blacktown City Council Growth Centre Precincts Development Control Plan 2016 (Growth Centre DCP).

9.1 Part 4.0 – Development in the Residential Zones (from main body of DCP)

a. Controls for all residential development

DCP requirement		Proposal	Complies
Site Responsive Design (Section 4.1)			
4.1.2 Cut and fill	<p>Maximum 500 mm cut/fill. Validation Report for imported fill. Where cut on the boundary, retaining walls must be integrated with its construction, otherwise minimum 450 mm from boundary. Maximum 600 mm high walls. Maximum 1,200 mm combined wall height. Minimum 0.5 m between each step.</p>	<p>This application seeks excavation associated with basement construction and the regrading of the site. The development is designed to provide basement car parking which will require more than 500 mm of cut into the land. It provides for a compliant development type in this zone. The depth of cut will be between approximately 7 m on average and will reach a maximum of 8 m at the waste collection area. There will be minimal adverse environmental impact associated with the proposed excavation since on-street waste collection and parking will not be required.</p>	<p>No, but basement parking will require deeper excavation to offset on-street impacts that would occur without it</p>