

Assessment report to Sydney Central City Planning Panel

PPS-2018CCI032

Development application

DA number	MOD-18-00331 to JRPP-15-2703	Date of lodgement	2 August 2018
Applicant	Stellar Rouse Hill Pty Ltd C/O- Minto Planning Pty Ltd		
Owner	Stellar Rouse Hill Pty Ltd		
Proposed development	Modify the approved 6 x 4 storey residential development to increase the developable area by 655 m ² ; increase the number of units within Stage 2 from 100 to 115; increase in height of buildings with Buildings D, E & F exceeding the height limit with part of the 4th level, feature walls, and lift overruns by 0.2 to 1.62 m; change in the unit mix; increase the basement size to provide additional parking; and changes to landscaping and drainage works.		
Street address	Lot 8 DP 1190434, H/N 103 Schofields Road, Rouse Hill		
Notification period	10 to 24 September 2018	Number of submissions	1

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> Major modification lodged under section 4.55(2) for a development application previously approved by the Panel Modification application will contravene the height of building development standard by more than 10%.
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River State Environmental Planning Policy (State and Regional Development) 2011 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 (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Blacktown City Council Growth Centre Precincts Development Control Plan 2016
Report prepared by	Kelly Coyne
Report date	24 September 2020
Recommendation	Refuse, based on the grounds listed in the report.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal
- 5 Development application plans

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? Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? 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:
- it is incompatible with neighbouring approved development
 - unsatisfactory design for temporary access from Schofields Road to Transport for New South Wales/ Roads and Maritime Services (TfNSW/RMS) and Council requirements
 - proposed increase in the overall building height above the maximum building height control in State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the Growth Centres SEPP)
 - proposed changes to the configuration of the approved building separation distances between buildings, resulting in non-compliance with State Environmental Planning Policy No. 65 (SEPP 65) and Apartment Design Guide (ADG's.)
 - non-compliance with the minimum site area for communal open space under the ADG's
 - inadequate and unsatisfactory stormwater drainage design.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments has identified issues of concern that cannot be dealt with by conditions.
- 1.3 The application is considered to be unsatisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel refuse the application based on the grounds listed in the Recommendation at section 12 below.

2 Location

- 2.1 The site is located within the Tallawong Precinct (former Area 20 Precinct) of the North West Growth Area. It is in the suburb of Rouse Hill.
- 2.2 The land immediately to the north and west of the site is zoned R3 Medium Density Residential. A portion of the land to the east is zoned RE1 Public Recreation, whilst the remaining land to the east is zoned R3 Medium Density Residential. The area has a building height limit of 12 m.
- 2.3 The site immediately adjoins Schofields Road to the south, a major arterial road.
- 2.4 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The land is legally described as Lot 8 DP 1190434, also known as 103 Schofields Road, Rouse Hill.
- 3.2 The site is a rectangular shape and has an area of 1.67 hectares with a road frontage to Schofields Road.
- 3.3 The site currently contains a single storey dwelling with a swimming pool, outbuildings and a dam.
- 3.4 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 On 21 October 2011, the site was rezoned to R3 Medium Density Residential under the Growth Centres SEPP. The zoning plan for the site and surrounds is at attachment 3. The

site was previously zoned 1(a) General Rural under Blacktown Local Environmental Plan 1988.

- 4.2 On 3 February 2015, the Applicant lodged a development application (JRPP-15-238) for the construction of a 4 storey residential flat building containing 105 residential units on the site. However, the Applicant withdrew the application on 22 July 2015 due to issues with the adjoining Transport for NSW (TfNSW) land, design issues and the relationship of the development with the Sydney Metro Northwest to the immediate north of the site.
- 4.3 On 11 April 2017, a deferred commencement consent was issued for the site under JRPP-15-2703, for the demolition of existing structures, tree removal, super lot subdivision of land including the construction of new roads and 6 x 4 storey residential flat buildings comprising 200 apartments with basement car parking, landscaping and common open space embellishment.
- 4.4 The deferred commencement condition required the road layout and associated levels to be amended to be consistent with the adjoining development at 99-101 Schofields Road, Rouse Hill, namely JRPP-16-03310 dated 23 January 2016. The condition required the Applicant to submit amended architectural plans, subdivision and engineering concept plans to reflect this change for Council consideration and approval.
- 4.5 Condition 1.2 of the deferred commencement consent granted 60 months from the date of consent for the deferred commencement condition to be completed.
- 4.6 On 8 November 2017, a letter was issued by Council confirming that the deferred commencement condition had been satisfied subject to the engineering matters being resolved prior to the issue of any construction certificate.
- 4.7 The deferred commencement condition related to the need for the road layout associated with the proposal to be amended so as to be consistent with that approved for the adjoining development located at 99-101 Schofields Road. This essentially required shifting the future local road which runs parallel to Schofields road to align with the same road on the adjoining development. This shift resulted in an increase in the available developable area for the site as it removes a redundant road widening previously required by TfNSW.

5 The proposal

- 5.1 The modification application was lodged by Stellar Rouse Hill Pty Ltd C/- Minto Planning Services Pty Ltd on 14 August 2018.
- 5.2 The Applicant proposes to modify Stage 2 of the approved development as follows:
 - 5.2.1 Changing the building numbering starting from the eastern corner building, Stage 1 on road 2, and going counter clockwise. Buildings have been renamed A through to F.
 - 5.2.2 Changing the southern boundary of the site to include a buildable area relinquished by TfNSW to the Applicant. The increase of 655 m² brings the site area to a new total of 10,695 m².
 - 5.2.3 Increasing the number of units within Stage 2 from 100 to 115, which is an additional 12 apartments in Block E and 3 in Block F.
 - 5.2.4 Changing the unit mix, resulting in 33 x 1-bedroom unit, 162 x 2-bedroom units and 20 x 3-bedroom units inclusive of 24 adaptable dwellings from 42 x 1 bedroom, 144 x 2 bedroom and 14 x 3 bedroom units.
 - 5.2.5 Reconfiguring the basement to allow for more parking and to ensure a 3.5 m headroom clearance for garbage truck pick up.
 - 5.2.6 Changing the ground floor landscaping and public domain. This includes relocating 2 substations, to now be placed in between Stages 1 and 2, and

lowering landscaping in the central courtyard to provide 3 new units of the same layout as Block F on the ground level with courtyard access. In addition, overall landscaping adjusted to conform to new Block E and changed site boundary

- 5.2.7 Increasing the floor to floor height in Block D from 2900 mm to 3100 mm. The external finishes and façade treatment are the same as the original development consent.
- 5.2.8 Redesigning Block E to utilise the added site area. The building footprint changes from an L-shape to a U-shaped building comprising of 57 apartments.
- 5.2.9 Adding 3 apartments to the ground floor of Block F to utilise area previously unused in the original development consent, which is now accessible due to the proposed lowered landscape area. The plans of the 3 apartments are exactly the same as the units above and continuation of the stack. The floor to floor ceiling height has been increased from 2900 mm to 3000 mm.
- 5.2.10 Modifying the approved landscape and stormwater treatment for Stage 2 to reflect changes proposed by this modification application.
- 5.2.11 Amending the levels of Stage 2 with the aim of providing better connectivity with Stage 1 and the adjoining roads.
- 5.3 Other details about the proposal are at attachment 4 and a copy of the modified development plans are at attachment 5.

6 Assessment against planning controls

- 6.1 A summary assessment of the development application against the section 4.15(1)(a) Environmental Planning and Assessment Act 1979 matters is provided below, but only for those planning controls that directly relate to refusal of the application.

6.2 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment
a. The provisions of: (i) any environmental planning instrument (EPI)	<p>The proposal is considered to be generally consistent with the relevant EPIs, including SREP No. 20 – Hawkesbury-Nepean River, SEPP (State and Regional Development) 2011, SEPP (Infrastructure) 2007, SEPP BASIX 2004, and SEPP No. 55 – Remediation of Land.</p> <p>The proposal is not considered to be consistent with SEPP No. 65 – Design Quality of Residential Apartment Development and the Growth Centres SEPP 2006.</p>
(ii) any proposed instrument that is or has been the subject of public consultation under this Act	<p>Following the lodgement of the parent application SPP-15-027033, a draft amendment to the Growth Centres SEPP 2006 was exhibited by the Department of Planning, Industry and Environment (DPIE) 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 don't 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 DPIE is the establishment of minimum and maximum densities for all residential areas that have been rezoned under the Growth Centres SEPP (i.e. density bands). Currently the planning controls nominate only a minimum density. This proposal will have a significant</p>

Heads of Consideration	Comment
	<p>influence on the ultimate development capacity (i.e. yield) of the precincts.</p> <p>This site is within the Tallawong Precinct (former Area 20 Precinct) and the maximum density band for this site is 35 dwellings per hectare, which equates to a maximum of 59 dwellings on this site. This proposal is for 215 dwellings, being an additional 156 dwellings above that anticipated in the exhibition package. This equates to 129 dwellings per hectare. Although the proposal is inconsistent with the maximum dwelling density exhibited in May 2017, there is no certainty or imminence to these amendments coming into effect, and therefore this has not been given weight in determining this application.</p> <p>Further, this application only seeks to make modifications to a DA that was approved by the Panel, notwithstanding its inconsistency with the draft controls.</p>
(iii) any development control plan (DCP)	<p>The Growth Centre Precincts DCP applies to the site. The proposed development is compliant with the numerical controls established under the DCP, with the exception of the street setback for Road 1. The proposed departures from these controls are consistent with the original consent.</p> <p>The proposal fails to provide a satisfactory temporary onsite stormwater detention system and stormwater quality system in accordance with Part J in Blacktown Council's Development Control Plan 2015 and the Standard Water Sensitive Urban Design Drawing A(BS) 175M and the Council's Engineering Guide for Development.</p>
(iiia) any planning agreement	<p>There are no planning agreements associated with this proposal.</p>
(iv) the regulations	<p>The DA is contrary to Clause 50 of the Environmental Planning and Assessment Regulation 2000, which requires the Applicant to provide all the necessary and requested information to Council to enable a proper assessment of the application, including the submission of responses to planning and engineering issues that impact on the current proposal.</p>
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 amended proposed development will result in negative safety impacts with regard to vehicular access to and from the site onto Schofields Road, privacy, and stormwater management.</p> <p>In view of the above, the modified proposed development will have unfavourable social, economic and environmental impacts including traffic and safety impacts.</p>
c. the suitability of the site for the development	<p>The site is zoned R3 Medium Density Residential with a 12 m building height limit under the Growth Centres SEPP. Residential flat buildings are permissible on the site with development consent.</p> <p>The proposal fails to provide safe temporary or permanent access off Schofields Road to the satisfaction of Council and TfNSW.</p> <p>The proposal fails to adhere to the relevant development controls with regards to stormwater, water quality, access and</p>

Heads of Consideration	Comment
	the Apartment Design Guide and is a poor development outcome for the site.
d. any submissions made in accordance with this Act, or the regulations	One submission was received following notification of this modification application. This is addressed in Section 8 below.
e. the public interest	<p>When compared to providing a development that strictly complies with the height of building, building separation, communal open space development standards and safe trafficable access to the development, this application fails to provide adequate amenity and safety for the future residents of the proposal.</p> <p>The proposal fails to provide safe trafficable access off Schofields Road to the development site and adequate onsite stormwater detention and water quality measures despite repeated requests from Council to address the key site constraints.</p>

6.3 Environmental Planning and Assessment Act 1979, Section 4.55(2) considerations for modification applications

Consideration	Comment
The proposed development is considered under section 4.55(2) of the Act. Under this provision, the consent authority may modify the consent if:	
a. it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)	The original development was approved for residential flat buildings. In the proposed modifications the Applicant now seeks to expand the footprint over an increased developable area, due to availability of residue land no longer required for road widening by TfNSW.
b. it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent	<p>The application was referred to Sydney Metro, Sydney Trains and TfNSW for comment. Sydney Metro was satisfied with previous conditions on the original consent.</p> <p>To date, TfNSW has not provided concurrence for the proposed temporary access arrangement. Amended plans were requested from the Applicant on a number of occasions so that TfNSW can complete their assessment of this application under Section 138 of the Roads Act, 1993. To date this key issue remains unresolved.</p>
c. it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification	The proposed modifications were notified to the adjoining and surrounding properties for 14 days and 1 submission was received.

Consideration	Comment
or advertising of applications for modification of a development consent	
d. it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.	A summary of the submission and a response is provided at attachment 6.

7 Key issues and reasons for refusal

7.1 Compatibility with neighbouring development JRPP-16-03310

- 7.1.1 The road layout and associated levels are required to be amended to be consistent with adjoining development at 99-101 Schofields Road, Rouse Hill, namely JRPP-16-03310 dated 23 January 2016. Amended architectural plans, subdivision and engineering concept plans are required to be submitted to Council for consideration and approval.
- 7.1.2 In order for Council to consider the application further, the Applicant was requested to provide an overlay of road long sections along Road 3 adjoining the approved road in the neighbouring lot to the west (Lot 7 DP 1190434) i.e. Road 2 in JRPP-16-03310 (engineering plan prepared by Demlakian Engineering P/L, plan reference No. 21508, revision P2 and dated 14/4/2016). The current proposal is not compatible with regard to the proposed road levels along the centreline of the future half-width road approved toward the west.
- 7.1.3 To date, Council has not received the above requested information regarding the road long section comparison with the neighbouring development and cannot verify this proposal's compatibility with the neighbouring existing approved development to the west of the site.

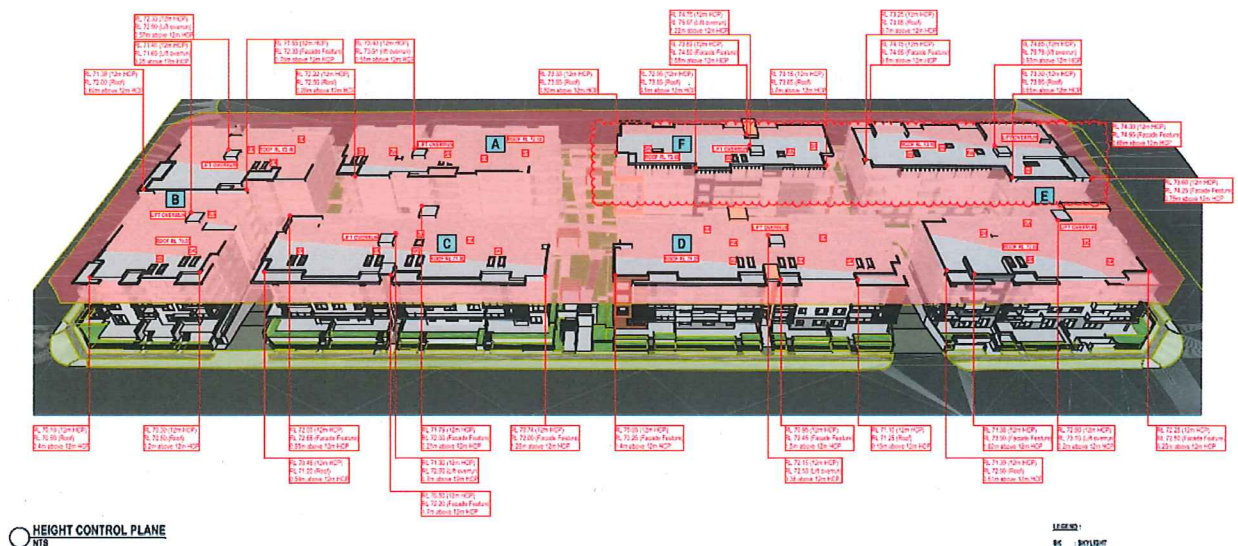
7.2 Proposed access from Schofield Road

- 7.2.1 The proposed amendment requires the Applicant to obtain written concurrence from Council's Traffic Management team and TfNSW that the proposed access configuration is compliant and safe. This concerns the access and egress from the proposed development onto Schofields Road as detailed on the current engineering plans.
- 7.2.2 The current proposed temporary road design configuration for access to Schofields Road is required to provide a safe intersection. The design has identified serious safety risks for intended traffic access and egress from Schofields Road into and out of the development.
- 7.2.3 Sight distance across the intersection shown in the current design for the amended proposal will be extremely difficult for both traffic accessing and leaving the site from this location due to the steep grade of the proposed temporary road to and from Schofields Road. Based on the current design, negotiating this intersection will be dangerous for all users. Traffic travelling along Schofields Road could also be negatively impacted.
- 7.2.4 Council's Engineering team has not received written confirmation from the TfNSW endorsing the proposed temporary road intersection design onto Schofields Road and Council's Traffic Management team can't endorse a design on a State road without TfNSW first approving it.

- 7.2.5 Council officers met with TfNSW on 25 May 2020 to discuss the proposed access off Schofields Road for this development. TfNSW has not provided concurrence for the proposed temporary access arrangement. Its latest correspondence dated 26 May 2020 stated that preference is for temporary vehicular access to be relocated to the south-west corner and for the local road levels to be raised to match Schofields Road. Amended plans were requested from the Applicant so that TfNSW could complete their assessment of this application under Section 138 of the Roads Act, 1993. To date these have not been received.
- 7.2.6 A meeting was held on 7 September 2020 to discuss the deferred commencement conditions and operational consent status of JRPP-15-02703. No endorsement was given by TfNSW to the position of the temporary access to Schofields Road and they also raised further concerns about this MOD application. TfNSW was going to further discuss the matter with the Applicant.

7.3 Proposed increase in the overall building height above the maximum building height control

- 7.3.1 Under JRPP-15-2703 the approved height was 12.85 m, which exceeded the development standard by 0.85 m. The height was approved with elements above the height limit including minor point encroachments of corners of some buildings, parapets, plant equipment and lift overruns. This was offset with elements of the buildings being up to 1.2 m below the maximum height limit and was supported with a Clause 4.6 variation.
- 7.3.2 This proposal seeks to increase the height of buildings E and F from 12.85 m to up to 13.62 m. The maximum building height under the Growth Centres SEPP is 12 m. Therefore, the building height is further varied by up 770 mm (a total of 1.62 m), or an increase to the variation from 7% to 12%.
- 7.3.3 The increase in height for buildings E and F is a result of the additional units being provided at the sub ground level. We don't support sub ground level units due to the poor amenity for residents this creates and the consequent 'pushing up' of the building to accommodate these units, as this will cause a breach of height as the habitable space of the top-level units intend to go over the height plane.
- 7.3.4 The 1.62 m encroachment over the height plane is mainly to cater for plant and equipment, and architectural feature columns that protrude above the height plane



(shown as the grey areas below). But this now also consists of a combination of habitable space, ceiling space and roof slabs for the top units totalling 800mm.

7.3.5 Building E has been totally redesigned to utilise the added site area, changing the footprint from an L-shape to a U-shaped building and seeking to provide an additional storey with 2 units at sub ground level. The point of height encroachments are as follows:

- from 0.61 m to 0.8 m for a number of Level 3 units' habitable space and roof height
- from 0.25 m to 1.62 m for façade features
- from 0.02 m and 0.93 m for lift overruns.

7.3.6 Building F proposes to provide an additional storey at sub ground level for 3 additional units and seeks to exceed the approved height by 650 mm due to:

- the floor to floor height of each storey increasing from 2900 mm to 3000 mm resulting in an increased height of 400 mm in total to meet ADG requirements
- the ground floor level being raised by 250 mm to ensure that sufficient clearance was provided within the basement for services and structure depths and dimensions.

The Applicant advised that the 650 mm increase in overall building height is not a deliberate attempt to accommodate addition habitable spaces/increased yield. The justification of increasing the height of the building to allow for sufficient floor to floor, thus ceiling heights, is invalid as the 2900mm floor to floor height will likely result in a further non-compliant ceiling height. The subterranean units and habitable space over the height plane should not be supported.

7.4 Proposed changes to the configuration of the approved building separation distances between buildings resulting in non-compliance

7.4.1 As approved in the original application the proposal provided building separation between 6 m and 14 m. Where building separation was less than 12 m, it was considered acceptable as there were no openings on one side, or separation was between non-habitable rooms.

7.4.2 The building separation distances between Building F and E, and D and E was approved at 6 m. However, the reconfiguration of Block E has resulted in non-compliances with internal separation for units of Buildings F and E and D and E between living rooms and bedrooms.

7.4.3 The building separation distances between Buildings F and E that are non-compliant are as follows:

- -FUG03<>EUG04 - 6 m separation between living room and bedroom.

This arrangement provides landscaping in front of the lounge room window of EUG04 that is offset from the living room window of FUG03. Both windows have been amended to provide raised sill heights of 1500 mm.

- -FUG04 <> EUG03 - 6.6 m separation between living room windows.

This arrangement provides raised sill heights of 1500 mm.

- -F103<>E104 and F203<>E204 - 6 m separation between living room and bedrooms.

This arrangement provides raised sill heights of 1500 mm to the living rooms and bedroom window that are offset.

- -F104<>E103 and F204<>E203 - 6.5 m separation between living rooms and balconies and F303<>E304 - 6 m separation between living room/bedroom.

These arrangements provide raised sill heights of 1500 mm to the living rooms and bedroom windows that are offset.

Council does support the openings proposed to be provided to the reconfigured Building E given the likely impact to the amenity of the future residents of Building F with regards to visual and acoustic privacy.

7.4.4 The building separation distances between Buildings D and E that are non-compliant are as follows:

- D105<>E112, D205<>E212 and D305<>E312 - 7m separation between living and bedrooms, balconies at 10m.

This arrangement provides raised sill heights of 1500mm to the living rooms and bedroom window that are offset. Privacy louvers are part of the design of the façade shielding the facing balconies from each other.

The original approval had no bedroom windows proposed to be provided to the southern elevation of Building D, therefore to protect the privacy and overlooking of future residents Council does not support this arrangement.

7.4.5 The internal building separation distances of Building E that are non-compliant are as follows:

- E102<>E113, E302<>E213, E103<>E113 and E303<>E213 - 11 m separation between bedroom and balcony.
- E102<>E108 and E202<>E208 - 6 m separation between bedroom/living rooms and balcony
- E114<>E108, E214<>E208 and E314<>E308 - 5 m separation between balconies and bedroom/living rooms.

The internal building separation distances proposed to be provided are considered unsatisfactory as the amenity will be comprised as raised sill heights are proposed to bedroom and living spaces that potentially overlook balconies where privacy screens are proposed.

7.4.6 The 5th floor of the proposal does not achieve the respective 9 m/18 m separation distances required either.

7.5 The proposal fails to meet the minimum site area for communal open space in accordance with the Apartment Design Guide

7.5.1 In the original application, only 20% (2,047 m²) of communal open space was provided for the development. This was considered acceptable at the time as TfNSW had intended to take more land from the Applicant for road widening.

7.5.2 This MOD proposal however increases the developable area by 645 m², but only proposes to provide an additional 146 m² of communal open space equating to only 21% (2,193 m²). As TfNSW has now advised it no longer requires this land, previously referred to in the original proposal as Lot 83, Council expected this land to merely be shifted to the other side of the new local road and be fully utilised for the communal open space to meet the 25% of the ADG requirement. However, this has not happened and on this basis, this MOD represents an overdevelopment of the site.

7.5.3 Therefore, the amended proposal as submitted does not meet the minimum requirement of 25% of communal open space for the site under the ADG.

7.6 The proposal fails to provide adequate stormwater configuration

- 7.6.1 The proposal must provide a temporary onsite stormwater detention system and stormwater quality system under Part J of the Blacktown City Council Development Control Plan 2015 and the Standard Water Sensitive Urban Design Drawing A(BS) 175M and Engineering Guide for Development.
- 7.6.2 The current design seeks to locate this infrastructure within the future road reserve. Council does not support any temporary OSD/STM systems within future public road reserves. The infrastructure should be wholly located on the subject site, exclusive of the road on their residential site. This may necessitate a staged delivery of the residential flat buildings.
- 7.6.3 Insufficient information has been provided to determine if the permissibility and extent of the stormwater tail out works. The Applicant must provide full details of the proposed site stormwater discharge arrangements. The development must provide a stormwater design that ensures a legal and contiguous stormwater connection to Council's existing stormwater system, capable of appropriately and safely conveying stormwater from the site to the regional facility/downstream watercourse for all flows up to and including the 100-year ARI.
- 7.6.4 Council does not support the proposed trapped low point within Road 2. The Applicant has not provided additional detail on a solution to convey the 1 in 100 year storm event. On this basis Council, cannot support the proposed amendments.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality between 12 and 26 September 2018.
- 8.2 We received 1 submission.
- 8.3 The issue raised by the resident relates to the potential effect of increased noise to the properties to the south of Schofields Road. The concern raised is that "the proposed buildings 6 x 4 in front of the road would make a barrier that reflects the road noise and increases the noise level in that belt."
- 8.4 The objection was referred to our Environmental Health Unit who advised it is noted that the modification proposed an increase in built area. No acoustic reports/letters or addendums were provided that addresses the changes. It is noted the original application was accompanied by an acoustic report. The modification application should provide at the very least an addendum to the original acoustic report reflecting on the changes. It was recommended that in the event the application is approved, that a condition be imposed for an amended acoustic report to be provided prior to the issue of a construction certificate.
- 8.5 The objection is not sufficient of itself to warrant refusal of the modification application.

9 External referrals

- 9.1 The modification application was referred to the following external authorities for comment:

Authority	Comments
Sydney Metro	Satisfied with previous conditions on the original consent.
Sydney Trains	No comment as it falls under Sydney Metro.

Authority	Comments
Transport NSW	Concurrence not granted as amended plans were requested to enable TfNSW to complete its assessment of this application under Section 138 of the Roads Act 1993.

10 Internal referrals

10.1 The modification application was referred to the following internal sections of Council for comment:

Section	Comments
Access and Traffic Management Services	Unsatisfactory
Waste	Acceptable subject to conditions of consent
Building	No objection or further conditions
Property	No objection
Landscape	No objection subject to conditions of consent
Engineering	Unsatisfactory
EHU	Acceptable subject to condition of consent

11 Conclusion

11.1 The proposed development has been assessed against all relevant matters and is not considered to be satisfactory. It is considered that the likely impacts of the development have not been satisfactorily addressed and that the proposal is not in the public interest. The site is not considered suitable for the proposed development.

12 Recommendation

1 Refuse Development Application MOD-18-00331 based on the following grounds:

a Insufficient information

- Pursuant to the provisions of Section 4.16(b) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to allow Council to carry out a full assessment of the application. In this regard, no response has been received to Council's correspondence dated 18 May 2020, requesting additional information/amended plans.

b Inconsistent with State Environmental Planning Policy No. 65- Design Quality of Residential Apartment Development

- Pursuant to the provisions of Section 4.16(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and specific criteria of the Apartment Design Guide with respect to building separation and communal open space requirements.
- Pursuant to the provisions of Section 4.16(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is

inconsistent with State Environmental Planning Policy (Sydney Region Growth Centres) 2006 with respect to Appendix 6, Clause 4.3 Height of buildings.

c Inconsistent with Blacktown City Council DCP

- Pursuant to the provisions of Section 4.16(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with the controls in Blacktown Development Control Plan 2015, Part J WSUD and Integrated Water Cycle Management and Council's WSUD standard drawings.


d Public interest

- Pursuant to the provisions of Section 4.16(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

e Inadequate

- Pursuant to the provisions of Section 4.15(i)(e) of the Environmental Planning and Assessment Act 1979, given that inadequate information has been submitted, approval of the application is not considered to be in the public interest

2 Council officers notify the Applicant and submitter of the Panel's decision.



Kelly Coyne
Assistant Team Leader

Judith Portelli
Manager Development Assessment

Chris Shannon
Acting Director Planning and Development